

## COUNTY OF EL DORADO

330 Fair Lane  
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SUZANNE ALLEN DE SANCHEZ  
Clerk of the Board



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November 17, 2009

California Department of Fish and Game:

Attached please find a packet containing valuable information on the positive effects of suction dredging on California's marine life and waterways. It is imperative that all enthusiasts of nature be good stewards of our natural resources, and I am convinced as you peruse through this packet you will be amazed at what scientists and other professionals have discovered while doing their research and the benefits dredging has brought to our communities.

Thanking you in advance for taking the time to review this information.

Sincerely,

Ray Nutting  
El Dorado County Supervisor District II  
(530) 621-5651



El Dorado County Board of Supervisors

**RAY NUTTING**  
SUPERVISOR, DISTRICT II

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October 6, 2009

Attention: El Dorado County Board of Supervisors

Regarding: Affects of Suction Dredging in El Dorado County

SB670 was recently passed by the legislature putting a moratorium on suction dredging throughout the state. The purpose of the bill was to stop all dredging in the state to protect the salmon. The bill was submitted by Wiggins of Santa Rosa, who has since retired from the Assembly. Our own Assembly representatives were split. Gainses against the Moratorium, Huber in favor. Huber stated at a recent presentation that she was of the assumption that 11 counties would be excluded from the moratorium. She voted for it to save water. There was an urgency placed on the bill which in effect stopped suction dredging with little or no notice to those of us who participate in this hobby. Hence there was a delay in response by the vast number of residents who enjoy the natural, historical and healthy sport.

Throughout the years our friends and families have come to "the river" to experience the potential of finding a little gold. It is hard, clean fun and lots of work. The results of using a 4" dredge are less than spectacular goldwise, but especially beneficial in establishing bonds and memories. Flour gold from the river, collected over 20 years was used for my grandson's wedding rings.

Every year the Arkansas Mining Company, a group of neighbors along the river who dredge and compete with each other over the summer months and work on our equipment during the winter months, buy four separate dredge permits, so we can legally dredge in our own part of the river. We own the land, pay our property taxes, maintain the river in an environmentally favorable manner and don't harm anyone or anything. We have happy fish. The water is clear and has been called pristine by the Cosumnes River Watershed manager.

Suction dredging of the hobbiest type does not use up water. It comes in the suction mouth and goes out the sluice box. It moves stream bed gravels less than 3" in diameter. The larger rocks are moved by brute strength. The fish eat the critters disturbed by the movement of the streambed gravels. There are no

salmon in the Cosumnes.

All of the Arkansas Mining Company members are 65 or older. We are a healthy lot owed partially to the activity provided by suction dredging. We don't cause trouble to the county, we are active in the community, we mind our own business and follow the edict "Do No Harm".

The Arkansas Mining Company requests the El Dorado Board of Supervisors seriously consider a Proclamation declaring El dorado County a Suction Dredging Moratorium Free Zone .

*John C. Brown*

*John Hopkins*

*Mike Hopkins*

*Ken Lupton*

*John Lupton*

*John*

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District V

October 28, 2009

The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Building  
Sacramento, CA 95814

Dear Governor Schwarzenegger:

The El Dorado County Board of Supervisors strongly encourages you and the Legislature to reconsider the provisions of Senate Bill 670 (Wolk) pertaining to suction dredging.

As you know SB 670 designates the issuance of suction dredge permits as a project under CEQA, suspends the issuance of new permits, and prohibits previously permitted dredging until the Department of Fish and Game completes an environmental impact report. As a County immersed in land resource issues and Gold Rush history, we are confident that the environmental and economic benefits of suction dredging have been hastily overlooked in this legislation.

After nearly two hours of public testimony detailing the benefits of suction dredging, the Board of Supervisors adopted the enclosed Resolution No. 223-2009 at our October 6, 2009 meeting. We encourage your careful consideration of this information, and hope that your Administration will work to repeal this unwarranted legislation.

Please do not hesitate to contact me if I can be of assistance to you regarding this matter.

Sincerely,



Raymond J. Nutting, Vice Chairman  
El Dorado County Board of Supervisors

cc: The Honorable Dave Cox  
The Honorable Ted Gaines  
The Honorable Alyson Huber  
The Honorable Patricia Wiggins

Governor Schwarzenegger

October 28, 2009

Page 2

Cc: The Honorable Ted Gaines

Congressman Tom McClintock

Greg Norton, CEO, Regional Council of Rural Counties

Paul McIntosh, Executive Director, California State Association of Counties

Mike Pool, Director, Bureau of Land Management

John Koch, Director, California Department of Fish and Game

Tom Tidwell, Chief, United States Forest Service

Lisa Jackson, EPA Administrator, United States Environmental Protection Agency

Board Members, State Water Resources Control Board

*In Legistar*

November 15, 2009

Mark Stopher  
California Department of Fish and Game  
Regional Headquarters  
601 Locust Street Redding, CA 96001

Dear Mr. Stopher:

The following paragraph, about the great salmon fishing on the Trinity river, was submitted to the El Dorado County Board of Supervisors on Oct. 6, 2009 concerning the obviously discriminatory and illegal ban on suction dredge mining. The EDC Board of Supervisors unanimously passed a resolution containing many statements backed by facts and peer reviewed studies concluding that Suction Dredge mining has minimal, if any, deleterious effects on fisheries or aquatic habitat. In fact, the economic contributions as well as the environmental clean up of toxic lead and mercury and other user trash from our waterways are well established facts. The suction dredge mining community should be encouraged in their endeavors to create real wealth within our economies and as an incidental by-product, remediate the in stream negative environmental effects caused by other past and present user groups.

So, apparently the salmon fishing is great on the Trinity River in spite of it being one of the most heavily gold dredged rivers in Northern California. So, why has suction dredging been banned in the entire state under the guise of protecting salmon when, in fact, salmon runs don't exist on many rivers draining the Sierra Nevada Range and in fact on rivers where salmon runs are still healthy, the salmon seem to co-exist just fine alongside the gold dredging community. Something smells very fishy with this state-wide ban on suction dredging. Incidentally, this article on the great salmon fishing on the Trinity River was published exactly one week after the suction dredge ban was signed into law. The whole thing stinks. NOTE: See accompanying articles from the Sacramento Bee. Also, the Klamath River has been a heavily dredged river and with the Trinity, they are the only two north coast rivers with salmon runs healthy enough to permit fishing, which obviously does kill fish. It doesn't take a very large amount of common sense to conclude that suction dredge mining should be encouraged to help maintain a healthy fisheries. The evidence is staring us in the face! Thank you for considering the facts.

Sincerely,



Steve Tyler  
5601 Bumper Road  
El Dorado, Calif. 95634

Enclosures

Cc: El Dorado County Board of Supervisors  
Governor Arnold Schwarzenegger

CLERK OF THE MEMBERS  
FOR THE BOARD OF SUPERVISORS

DATE 11-16-09

August 13, 2009 | The Sacramento Bee | [sacbee.com/stories](http://sacbee.com/stories) here ♦♦

# OUTBOUND

## SALMON SEASON



**THURSDAY:** Salmon fishing is banned almost everywhere in California except on the Trinity and Klamath rivers, but local anglers will have a limited opportunity to land a salmon on a stretch of the Sacramento River between Red Bluff and Knights Landing, beginning Monday. **LIVING HERE: OUTBOUND**

A14 The Sacramento Bee Tuesday, November 10, 2009

SACRAMENTO RIVER SALMON POPULATIONS HAVE COLLAPSED, BUT WAY UP NORTH THE TRINITY IS A GREAT PLACE TO ...

# Fish on!







HOLLY A. HEYSER  
Guide, Jon Harrison rows and Hank Shaw anticipates the next action in the Trinity River during a salmon trip last month. Also aboard is Harrison's dog, also named Trinity.

By HOLLY A. HEYSER  
Special to The Bee

Our guide uttered the magic words on the drive home from a lackluster striped-bass fishing trip on the Sacramento River. For my boyfriend, Hank Shaw — who is obsessed with cooking — the albacore-dabba moment came with a description of the fish: "They're so fat it's like they come with their own butter."

I was hypnotized by a description of the river: "The water is so clear you can see 20 feet down. Sometimes you can see the fish coming in to take your bait. And some days you don't see anyone else on the water."

"We're in," we told Jon Harrison of Five Rivers Guide Service in Orangevale. We were going salmon fishing on the Trinity River. Salmon fishing was becoming a distant memory for us with the unexpected collapse of the Sacramento River Chinook salmon run in fall 2007. The fish count imperceptibly plunged to barely half of what was needed for a sustainable population. State and federal agencies responded by drastically curtailing salmon fishing in 2003, and again this year.

But salmon runs on the Klamath River and its tributary, the Trinity, are in better shape, so riches await anyone willing to make the 316-hour trip north. And for Harrison, nothing compares to the Trinity.

"It's my favorite of the rivers I fish," he said, naming waterways: Sacramento, American, Feather, Yuba and Trinity. "You can get away from people. It reminds me of my childhood fishing in the Sierras, but the fish are much larger."

When we fished the Trinity with Harrison a few weeks ago, we targeted the spring run, the first of two Chinook runs on the river.

The fall salmon run, which is preferred to be quite robust this year, is what brings anglers out in droves in September and October.

But the spring run is unusual: Instead of heading upstream and spawning fairly quickly as the fall fish do, spring-run Chinook sprint up the Trinity as early as April and spend the summer idling in deep holes until they reach

sexual maturity. Then they move into spawning beds.

(The spring run begins in mid-June, when water flows drop to manageable levels, and continues through August. Fishers can catch and keep two salmon a day, starting in January. Possession is also limited to no more than two.)

Because salmon don't feed after they enter fresh water, these fish must peak on the fat before leaving the ocean for the last act of their lives. That's what Harrison meant when he said they come with their own butter: They're as good as, or better than, ocean-caught salmon.

That was appealing to me because I'd caught one salmon in my life — a 32-pound nonster, just south of downtown Sacramento — and rather than

SALMON | Page D7



HOLLY A. HEYSER

It's hard to tell who's more excited about a 26-inch salmon hauled in by Holly Heyser — guide Jon Harrison or his dog Trinity.

Salmon: Harbless hooks help throw-back and escaped fish stay alive



# Salmon: Barbless hooks help thrown-back and escape fish stay alive

FROM PAGE D1

being delighted with the feast I'd caught, I was put off. It tasted like the Sacramento River from which it had come.

Now we were just waiting for proof from the Trinity spring is everything, Harrison said.

On the first morning of our two-day trip, we set out on the river at 5:30 a.m.

"You can't write where we are," Harrison said sternly, looking me in the eye.

We soon found out why: This stretch of the upper Trinity River was virtually deserted, even though there were plenty of anglers in the area. We knew from the empty trailer where we had parked that there was one boat in the water ahead of us, but in more than seven hours on the river that day, we saw just one other angler — a man fishing from the bank.

Soon after putting in, Harrison rowed us in his drift boat just a short way downstream before stopping just above a pool that was dotted with rocks covered by lush bunch grasses and Indian rhubarb. He spent a few minutes tying sardine filets onto Quikfish lures, trussing them up with fishing line. Because salmon don't eat in fresh water, the idea wasn't to tantalize their taste buds but to irritate



THE spring-run chinook salmon is renowned for its high fat content.

MOLLY A. HEYSER

them, prompting an attack.

Harrison dropped the first Quikfish into the water and let line out until the lure hit the spot where he knew the fish lay. Thunk! Thunk!

A fish was on the line immediately. He handed the rod to Hank, who started reeling, and then just as quickly the fish was free.

What had happened?

Our barbless hooks, required on the Trinity and throughout the Klamath basin, would make it a challenge to land fish on this trip.

The hooks prevent killing the fish that anglers don't or can't keep, says Larry Hanson, a senior biologist for the state Department of Fish and Game.

When Harrison dropped

bald eagles and osprey overhead.

But occasionally he took us through rapids, the bottom of the aluminum boat thudding on the rocks underneath. No wonder there weren't many people around — this was not for an unskilled boatman.

Late in the morning, we arrived at Harrison's favorite hole, where submerged iron girders provided the structure fish love. By now our method had changed: Once

the sun hits the water, the bright Quikfish are too flashy, so we were casting balls of vivid red salmon roe into known salmon lairs.

Why does roe work when salmon don't eat in fresh water? The theory is their memory of feeding on roe as juveniles makes them bite instinctively.

Thunk! Thunk! There was a fish on Hank's line.

He set the hook and began reeling. The fish bolted, stripping line from the reel. Hank reeled it in, and it raced back out. In, out, in, out. We could

watch most of the battle play out in the deep, clear pool in front of us, and we could see that this fish was a monster. We prayed the barbless hook would hold.

All three of us held our breath as the fish zipped under the boat — increasing its odds of getting off the

hook. But Hank brought it back, and after several attempts with the net, we finally got it on the boat. Thirty inches long, about 20 pounds — well worth the wait.

This was the only fish we would get that day, but the next day I caught my limit of two by 8 a.m., the first 25 inches long, the second 29 inches. It was a respectable haul for a season in which the spring run has been described as average.

So how do Trinity spring-run taste?

Harrison hadn't exaggerated a bit. They were rich and decadent, as good as the best salmon we've ever had. We feasted for days and froze what we knew we couldn't eat soon.

Even if the salmon run on the Sacramento River rebounds and provides good salmon fishing much closer to home, I suspect we'll head back to the Trinity with Harrison every summer. We've fallen under the river's spell.

*Holly A. Heyser teaches journalism at California State University, Sacramento, and writes a blog about hunting. Read more about this fishing trip — including tales of what Heyser and Sharon did with their catch — on Heyser's blog, [www.norcalzadadoru.com](http://www.norcalzadadoru.com), and Sharon's blog, [www.honestfood.net](http://www.honestfood.net).*

## SALMON FISHING ON THE TRINITY RIVER

Spring run: Mid-June through August. (You can catch and keep two fish per day. You can also have only two in your possession. The limits apply starting in January, though most spring-run fishing begins mid-June.)

Fall run: September and October (limit three per day, no more than two adult fish; possession limit of nine, no more than six adults)

### Guides include:

■ Jon Harrison of Five Rivers Guide Service, (916) 806-3119.

■ You'll other Trinity River fishing guides at [www.blm.gov/ca/sven/fo/reading/recreationmain/fishinguide.html](http://www.blm.gov/ca/sven/fo/reading/recreationmain/fishinguide.html).

### Other salmon fishing in California:

■ Ocean: Aug. 29–Sept. 7, north of Horse Mountain in Humboldt County, limit of two fish per day, minimum size 24 inches

■ Sacramento River: Nov. 16–Dec. 31, from Highway 113 in Knights Landing to the lower Ret Bluff (Sacramento) boat ramp, limit of one fish — per day and in possession.

### Other things to do in Trinity County

■ Visit the Trinity County Chamber of Commerce at [www.trinitycounty.com](http://www.trinitycounty.com), or (800) 487-4648.

November 16, 2009

Mark Stopher  
California Department of Fish and Game  
Regional Headquarters  
601 Locust Street  
Redding CA 96001

Dear Mr. Stopher

Elemental mercury in our rivers and streams is a subject of concern to all of the population in California today. Although some amount of naturally occurring mercury is present in our waterways, especially in streams originating in the coastal range, mining during the 19<sup>th</sup> century is the main source of the mercury load contained in our California Rivers at present. Year after year, sediments, sand and gravels containing this mercury are being transported toward the delta. These are known facts. A lesser known but obviously apparent fact is that the same hydrological forces that transport these materials year after year constantly grind and re-suspend floured mercury, not on, but in the gravels above bedrock. Only in certain areas of our streams and rivers, where there is a concentrating hydrological effect, is the mercury re-concentrated into larger droplets. The remaining floured mercury, which is the majority fraction, remains suspended in the gravels as it has a lighter specific gravity than gold and is in a liquid state, which prevents it from being wedged into bedrock unless amalgamated with gold. This is an obvious fact, which has been apparent to the many suction dredge gold miners who have collectively accumulated millions of hours of dredging in our streams and rivers for the last 50 years. The modern suction gold dredge is the perfect concentrator for removing mercury from the gravels of our rivers. The California Water Resources Control Board did a study, finding that a suction dredge removed 98% of the mercury in the gravel it processed and this study did not even employ a modern design gold dredge operated by a professional operator. The CWRCB then concluded that the 2% mercury lost was worse than the 98% recovered. What kind of twisted logic is that? To be a successful gold miner requires a considerable amount of common sense. Apparently that is not a requirement to be a member of the CWRCB.

A more common sense approach would be to work with the mining community and possibly provide periodical collection points where mercury and lead could be disposed of in a proper manner. Suction dredge miners are obviously the best-equipped group to facilitate the removal of metallic mercury in our rivers as an incidental by-product of their economically beneficial activity. At relatively little expense to our California government, a large portion of the mercury in our rivers could be taken care of before it is allowed to migrate on down to the delta. We need to work together to protect our environment and encourage the wise use of our resources.

Enclosed is a three-page challenge by the AD-Hoc Anti-Mercury Committee dated June 2009. Included in their list of possible solutions is the use of suction dredges as a partial answer to the removal of mercury from our environment. In Washington State, a program has already been successful in the collection of over 150 lbs of mercury removed from the waterways of their state in a short amount of time. Let's get it done. Thanks for your consideration of the facts.

Sincerely,



Steve Tyler  
5601 Bumper Road  
El Dorado, Calif. 95623

Enclosures  
Cc El Dorado County Board of Supervisors  
Governor Arnold Schwarzenegger

## **A Challenge to Remove Mercury from the California Environment**

June 2009

The undersigned ad-hoc committee has been following the many research projects about mercury and other toxins in the environment. The scope of the research results have been a source of astonishment at their depth and admiration for the results that have been published.

**Summary:** The goal of the ad-hoc committee was to learn about the presence and effects of mercury(Hg) in the environment and to identify methods of removing such a health hazard from the environment. After following the published research and learning of advances in Hg removal technology, we have concluded that the possibility for realization of the stated goals is now in sight. Furthermore, the recent economic downturn, rather than decreasing the realization of Hg removal, may actually increase the possibilities of removal. The recent passage of economic stimulus legislation by Congress to provide employment opportunities should allow funding of Hg removal for reasons of providing employment with the added benefit of removal of a health hazard.

**Background:** The dispersal of Hg in the environment in earlier geologic times occurred only with earth movements such as volcanic eruptions. More recent industrial activities such as burning fossil fuels and mining, especially for use in gold extraction, and the process of gold extraction, have resulted in increased concentrations of Hg (Sacramento River Watershed Program: [www.sacriver.org/issues/mercury](http://www.sacriver.org/issues/mercury)), especially in California, to the extent that environmental Hg is a recognized health hazard. The recent report, presented as an executive summary at the December 2008 meeting of the Delta Tributary Mercury Council, "Mining's Toxic Legacy" (Carrie Monohan, PhD, Sierra Fund: [www.sierrafund.org](http://www.sierrafund.org)) traces the development of gold mining and its environmental consequences. The report states that 26 million pounds of mercury were brought to the California Gold Country of which about half were never recovered and escaped into the environment. This is the source of the estimated several hundred pounds of Hg that flow into San Francisco Bay annually. The report stated that the gold rush benefitted the entire United States and that the Federal and State governments should be involved in the mitigation of the problems.

The path of mercury into the food chain has been the subject of many studies. The results of these studies have led the Ad-Hoc Committee to conclude that removal of the metallic Hg, which is the source of Methyl-Hg, would result in the significant reduction (not easily quantifiable) of Hg from the food chain. The downstream progress of Hg-containing sediments has been severely reduced by the use of the natural outflow for agricultural, industrial, and urban activities, and, as a result, the flushing action of river transport to the ocean has been prolonged. For that reason, we believe that any removal of Hg from the sources will reduce the time for the concentrations to be lowered to where they are not dangerous to health.

**Possible Solutions:** The small-scale mining community using suction dredges and sluices in Washington State has provided a partial answer. In the May 2007 issue of the ICMJ Prospecting and Mining Journal, it was reported that the Washington Department of Ecology has received over 150 pounds of Hg from this source. The Hg was accumulated in the sluice boxes alongside the gold. Also, Carrie Monohan in the December 2008 presentation stated that metallic Hg was visible in a creek near her residence and that it was removed by simply using a common turkey baster. These reports have led the Ad-Hoc Committee to conclude that establishment of a state wide program of buying Hg that was removed from

the environment by miners or others, would result in a significant amount of Hg being intercepted before it causes any more damage. The USGS in publication "Fact Sheet 2005-3041 Version 1.1; C. N. Alpers, M. P. Hunerlach, J. T. May, R. L. Hothem (<http://pubs.usgs.gov/fs/2005/3041/>) states "Today, mercury is recovered as a by-product from small-scale gold dredging operations; also, mercury and gold are recovered as byproducts from some gravel mining operations, especially in areas affected by historical gold mining." These methods of Hg extraction from the environment if encouraged by financial incentives could, as stated previously, result in removal of significant amounts of Hg from the environment.

The Sierra watersheds are the sites of many reservoirs installed for irrigation and/or hydro power electric generation. Over the years, the silt that would otherwise be carried downstream has become trapped, and as a result, the holding capacity of the dams has diminished, thus necessitating removal of the silt. One such project at the Combie Reservoir on the Bear River has recognized this as an opportunity to also remove the Hg (private communication to I. Sturman). The project goals are listed as: renewed storage capacity, Hg removal from the sediment, commercial use of the dredged materials, improved recreation, and public education.

Other possibilities of interception could benefit from the model of the interception ponds installed on Cache Creek. Although not in the gold country, the Coast Range is the site of numerous Hg deposits that were mined for gold extraction use and thus Hg was introduced into the local mine environment.

The interception process in the Gold Country and the Coast Range could be the subject of many site specific research projects that would result in new methods of interception and Hg extraction.

The previously described procedures are specific for remediation of water-borne Hg. It is likely that there are many non-water related sites (Hg mines, industrial facilities, etc.). A 73 page summary of other methods of Hg removal was published by the U.S. Department of Energy in 2001 as "Mercury Contaminated Material Decontamination Methods: Investigation and Assessment" by M.A. Ebadian, PhD; Marshall Allen; Yong Cai, PhD; John F. McGahan ([www.hcet.fiu.edu](http://www.hcet.fiu.edu)). An eight page article "Extractability and Bioavailability of Mercury from a Mercury Sulfide Contaminated Soil in Oak Ridge, Tennessee, USA" by F. X. Han, S. Shiyab, J. Chen, Y. Su, D. L. Monts, C. A. Waggoner, and F. B. Matta was published in Water Air Soil Pollution (2008) 194:67-75. Also, a detailed description (seven pages) of "...removing contaminants from contaminated soils...", "...using electrokinesis..." is available as a patent description "Process and Apparatus for recovering Heavy Metals from Contaminated Materials" ([www.wipo.int](http://www.wipo.int)).

The previously described methods for Hg removal will reduce the amount of Hg entering San Francisco Bay. However, the bay contains significant amounts of Hg owing to the water flow from both the Sierra Gold Country and the Coast Range deposits that have been mined. The Hg deposits from the Gold Country should be accompanied by deposits of gold (Au) as indicated in previous references (because of their similarity in density). This opens the possibility of locating higher concentrations (concentrated by natural forces, wind, wave, and tidal action), in bay sediments and selectively dredging them to remove the Hg (and Au) bearing layers using techniques such as air lift suction to minimally disturb the sediments. It may be that the concentration of Au in bay sediments is low, but recently developed technology (heap leaching) can extract Au from ores at less than one part per million by weight ("Gold from Panning to High-Tech Mining" Tom Farley, Invention and Technology, Summer 2008, Volume 23, Number 2). At this writing (June 2009) the price of Au is about \$900 per troy ounce. The price of Au has risen faster than the cost of extracting it. Any



recovery of Au would help mitigate the cost of Hg removal. The sediments from non-gold country sources, such as the Guadalupe River flowing into the south bay will require different methods for Hg extraction from the sediments, possibly centrifuge processing.

The previously mentioned economic stimulus plan was listed as a possible source of funds in "Cleanup of abandoned mines expected to continue", Joan Lowry (San Francisco Chronicle, February 16, 2009, page A11). "The final bill, approved by the House and Senate on Friday, contains more than \$1.5 billion for construction and maintenance projects in the Bureau of Land Management, the National Park Service and the Forest Service. This includes addressing pollution and safety hazards caused by abandoned mines on public lands." "... Senator Dianne Feinstein, D-Calif., (was) one of the lawmakers who sought the money." The article states that projects other than mine cleanups are also eligible for the funds. However, the economic stimulus bill is limited to Federal lands and thus cannot solve the entire problem of Hg contamination in California. But, there already are Superfund projects active in California, at Clear Lake, near Redding, and near Davis, Jane Kay (San Francisco Chronicle, April 16, 2009) so there are precedents.

**The Challenge:** The Federal, State, and Local Environmental and Water Quality Agencies, volunteer, non-profit environmental organizations local citizens organizations, mining companies, and small-scale miners are the vehicles by which the Hg contamination in California can finally be mitigated. These organizations are challenged to form an umbrella organization with the common goal of removing the Hg from the California environment. The task requires the application of a "Super Fund" clean up effort applied to the entire state, not just to a specific site. The results will not be instantaneous, but applying the methodology selectively to the most contaminated sites first, possibly one or a few at a time, will have the potential of reducing the San Francisco Bay and other California environment concentrations of Hg in tens of years rather than hundreds of years if nothing is done.

As quoted previously, the entire nation benefitted from the Gold Rush, thus it is appropriate that the cost for the clean up come from the federal government.

#### **The Ad-Hoc Anti-Mercury Committee:**

Benjamin E. Gordon: BS 1940, MS 1943 Magna Cum Laude, University of Illinois: Shell Oil Company and Shell Development Company, 31 years: Lawrence Berkeley Radiation Laboratory; Analytical Chemist; Supervisor, Analytical and Radio chemistry, 19 years: Netherlands Shell, Supervisor and Radiation Safety Officer, 4 years: 273 research papers.

John Rasmussen: Professor of Chemistry, Emeritus, University of California, Berkeley; Author of Encyclopedia Britannica Article "Radioactivity": Also, Biographical Entries in "Who's Who in America" and "American Men and Women of Science".

Ivan Sturman: BSEE, Carnegie Institute of Technology (now Carnegie-Mellon University) California Registered Professional Engineer: Field Engineer, Quality Control Manager, Earth Sciences Application Engineer, Civil Defense Research Engineer; Marine Mineral Exploration Engineer, Hydrographic Survey Engineer; Nuclear Radiation Instrument Systems Engineer for Nuclear Power Plants, 19 Research Papers: Volunteer Creek Restorer: Volunteer Restorer Historic Victory Ship.

# Exhibit 1

39TH CONGRESS,  
1st Session

H. R. 365.

## IN THE SENATE OF THE UNITED STATES.

JULY 19, 1866.

Ordered to be printed.

### AMENDMENT

Reported by Mr. STEWART, from the Committee on Public Lands, to the act (H. B. 365) granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon, and Nevada, viz: Strike out all after the enacting clause, and insert as follows:

3 That the mineral lands of the public domain, both surveyed  
4 and unsurveyed, are hereby declared to be free and open to  
5 exploration and occupation by all citizens of the United  
6 States, and those who have declared their intention to become  
7 citizens, subject to such regulations as may be prescribed by  
8 law, and subject also to the local custom or rules of miners  
9 in the several mining districts, so far as the same may not be  
10 in conflict with the laws of the United States.

1 **SEC. 2. And be it further enacted,** That whenever any  
2 person or association of persons claim a vein or lode of quartz,  
3 or other rock in place, bearing gold, silver, cinnabar, or cop-  
4 per, having previously occupied and improved the same  
5 according to the local custom or rules of miners in the district  
6 where the same is situated, and having expended in actual  
7 labor and improvements thereon an amount of not less than  
8 one thousand dollars, and in regard to whose possession there  
9 is no controversy or opposing claim, it shall and may be law-  
10 ful for said claimant or association of claimants to file in the  
11 local land office a diagram of the same, so extended laterally  
12 or otherwise as to conform to the local laws, customs, and  
13 rules of miners, and to enter such tract and receive a patent

14 therefor, granting such mine, together with the right to fol-  
15 low such vein or lode with its dips, angles, and variations, to  
16 any depth, although it may enter the land adjoining, which  
17 discoverer of the lode, with the right to follow such vein to  
18 any depth, with all its dips, variations, and angles, together  
14 with a reasonable quantity of surface for the convenient  
15 working of the same as fixed by local rules : *And provided*  
16 *further,* That no person may make more than one location  
17 on the same lode, and not more than three thousand feet shall  
18 be taken in any one claim by any association of persons.

1 **SEC. 5. And be it further enacted,** That as a further  
2 condition of sale, in the absence of necessary legislation by  
3 Congress, the local legislature of any State or Territory may  
4 provide rules for working mines involving casements, drain-  
5 age, and other necessary means to their complete develop-  
6 ment; and those conditions shall be fully expressed in the  
7 patent.

1 **SEC. 6. And be it further enacted,** That whenever any  
2 adverse claimants to any mine located and claimed as afore-  
3 said, shall appear before the approval of the survey, as pro-  
4 vided in the third section of this act, all proceedings shall be  
5 stayed until a final settlement and adjudication in the courts  
6 of competent jurisdiction of the rights of possession to such  
7 claim, when a patent may issue as in other cases.

1 **SEC. 7. And be it further enacted,** That the President  
2 of the United States be, and is hereby, authorized to establish  
3 additional land districts and to appoint the necessary officers  
4 under existing laws, wherever he may deem the same neces-  
5 sary for the public convenience in executing the provisions  
6 of this act.

1 **SEC. 8. And be it further enacted,** That the right of  
2 way for the construction of highways over public lands, not  
3 reserved for public uses, is hereby granted.

1 **SEC. 9. And be it further enacted,** That whenever, by  
2 priority of possession, rights to the use of water for mining,  
3 agricultural, manufacturing, or other purposes, have vested

4 and accrued, and the same are recognized and acknowledged  
5 by the local customs, laws, and the decisions of courts, the  
6 possessors and owners of such vested rights, shall be main-  
17 land adjoining shall be sold subject to this condition.

1 **SEC. 3. And be it further enacted,** That upon the filing  
2 of the diagram as provided in the second section of this act,  
3 and posting the same in a conspicuous place on the claim,  
4 together with a notice of intention to apply for a patent, the  
5 register of the land office shall publish a notice of the same  
6 in a newspaper published nearest to the location of said claim,  
7 and shall also post such notice in his office for the period of  
8 ninety days; and after the expiration of said period, if no  
9 adverse claim shall have been filed, it shall be the duty of  
10 the surveyor general, upon application of the party, to survey  
11 the premises and make a plat thereof, indorsed with his ap-  
12 proval, designating the number and description of the loca-  
33 tion, the value of the labor and improvements, and the  
14 character of the vein exposed; and upon the payment to the  
15 proper officer of five dollars per acre, together with the cost  
16 of such survey, plat, and notice, and giving satisfactory evi-  
17 dence that said diagram and notice have been posted on the  
18 claim during said period of ninety days, the register of the  
19 land office shall transmit to the General Land Office said plat,  
20 survey, and description; and a patent shall issue for the same  
21 thereupon. But said plat, survey, or description shall in no  
22 case cover more than one vein or lode, and no patent shall  
23 issue for more than one vein or lode, which shall be expressed  
24 in the patent issued.

1 **SEC. 4. And be it further enacted,** That when such  
2 location and entry of a mine shall be upon unsurveyed lands,  
3 it shall and may be lawful, after the extension thereto of the-  
4 public surveys, to adjust the surveys to the limits of the  
5 premises according to the location and possession and plat  
6 aforesaid, and the surveyor general may, in extending the  
7 surveys, vary the same from a rectangular form to suit the  
8 circumstances of the country and the local rules, laws, and

9 customs of miners: *Provided,* That no location hereafter  
10 made shall exceed two hundred feet in length along the vein  
11 for each locator, with an additional claim for discovery to the  
7 tained and protected in the same; and the right of way for  
8 the construction of ditches and canals for the purposes afore-  
9 said is hereby acknowledged and confirmed: *Provided, how-*  
10 *ever,* That whenever, after the passage of this act, any person  
11 or persons shall, in the construction of any ditch or canal,  
12 injure or damage the possession of any settler on the public  
13 domain, the party committing such injury or damage shall be  
14 liable to the party injured for such injury or damage.

1 **SEC. 10. And be it further enacted,** That wherever, prior  
2 to the passage of this act, upon the lands heretofore designated  
3 as mineral lands, which have been excluded from survey and  
4 sale, there have been homesteads made by citizens of the  
5 United States, or persons who have declared their intention  
6 to become citizens, which homesteads have been made, im-  
7 proved, and used for agricultural purposes, and upon which  
8 there have been no valuable mines of gold, silver, cinnabar  
9 or copper discovered, and which are properly agricultural  
10 lands, the said settlers or owners of such homesteads shall  
11 have a right of pre-emption thereto, and shall be entitled to  
12 purchase the same at the price of one dollar and twenty-five  
13 cents per acre, and in quantity not to exceed one hundred and  
14 sixty-acres ; or said parties may avail themselves of the pro-  
15 visions of the act of Congress approved May twenty, eigh-  
16 teen hundred and sixty-two, entitled "An act to secure  
17 homesteads to actual settlers on the public domain," and acts  
18 amendatory thereof.

1 **SEC. 11. And be it further enacted,** That upon the sur-  
2 vey of the lands aforesaid, the Secretary of the Interior may  
3 designate and set apart such portions of the said lands as are  
4 clearly agricultural lands, which lands shall thereafter be sub-  
5 ject to pre-emption and sale as other public lands of the United  
6 States, and subject to all the laws and regulations applicable  
7 to the same.

*fyf I*  
*from Steve Tyler*  
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## Miner's News

### 10/08/2009 California suction dredging update

The State of California has obtained an extension for filing their response to the federal lawsuit filed by Public Lands for the People (PLP).

The lawsuit seeks to enjoin the State of California from enforcing SB 670, the bill enacted August 6 that halted the issuance of suction dredging permits.

State officials now have until November 24 to file their response in US District Court in Sacramento.

PLP is still hoping to get the rights of suction gold dredgers restored before the next dredging season.

In the meantime, the California Department of Fish & Game has released a review of available studies in preparation of the draft EIR for new suction dredging regulations. The 122 page document appears to contain very little new information from the EIR completed in 1994.

Review of Available Studies & Literature for Suction Dredging (1.26Mb pdf)

Look for more extensive coverage on the suction dredging lawsuit and EIR, along with other pending lawsuits, in our upcoming November issue.

Back to

*24*

24

BOARD OF  
ELECTIONS  
2500  
1000

PETE CONATY & ASSOCIATES  
GOVERNMENTAL RELATIONS

August 12, 2009

Dave McCracken  
The New 49'er Prospecting Association  
27 Davis Road  
Happy Camp, CA 96039

Dear Dave,

I wanted to take this opportunity to comment about Senate Bill 670 which was signed into law by the Governor despite our best efforts.

SB 670 was the final straw in a very heated battle in the California Legislature that has been ongoing for the past several years through various bills, and also through the budget process. This time we were overwhelmed by the opposition.

During the final days before SB 670 was passed by the Legislature and sent to the Governor, Assemblyman Nielsen tried to broker a deal between the proponents and opposition of the bill to make it less draconian and to prevent the devastation to miners, rural economies and more lost jobs. A meeting was held; but late the evening before they rammed it through on the Assembly Floor, the author's office informed Assemblyman Nielsen that they weren't interested in making any deals. The bill was easily passed and sent to the Governor. While it was awaiting the Governor's action, thousands of postcards & letters were delivered to the Governor's office, letters opposing this bill went to the Governor from our friends in the Legislature, as well as rural counties that would be negatively impacted. A meeting with the Governor's staff was held with several representatives of the opposition and Senator Sam Aanestad was in many media outlets calling for a veto. But despite these efforts and more, the bill was signed into law by Governor Schwarzenegger.

One of the major obstacles that our opposition could not overcome was the support of SB670 by California Indian Tribes, not just the Karuks as with the previous bills which we defeated. The Karuks were able to get the California Tribal Business Alliance behind their efforts.

Because of this, SB 670 had strong momentum right from the beginning that increased throughout the entire process, despite all of our efforts.

While it is not surprising that big money behind anti-mining interests were able to influence legislators who must constantly raise funds for reelection campaigns, we were very surprised and extremely disappointed that the governor signed the bill, especially after he received record numbers of messages from people who opposed SB 670. It is estimated that over 10,000 postcards and letters were delivered or mailed to the Governor.

This was one of the best grassroots efforts I have ever seen in my 23 years at the state Capitol. Miners and businesses sent thousands of postcards and letters to the Governor. Everyone who

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helped in the effort to inform folks and get them to sign postcards, send a letter or call their legislators should be applauded. You did a great job.

One thing I wanted to point out is that SB 670 did not pass because of any lack of effort on the part of the miners. Your industry did an amazing job of organizing opposition to the bill. Rachel Dunn of Gold Pan California in Concord deserves a lot of credit for this. Many, many others also jumped in to help organize letters from hundreds of businesses and thousands upon thousands of personal messages from individuals across America and even from outside of the U.S. Your whole industry really pulled together on this one!

Nobody is more sorry than me that the governor ultimately signed this bill. I know there is a lot of disappointment, not just from me. All I can say is that you should take some comfort in knowing that we did our collective best to defeat SB 670. We didn't miss anything. We opposed it as best we could. We were just overwhelmed by the collective opposition of the Karuks, environmentalists, Indian Gaming Tribes and fishing groups.

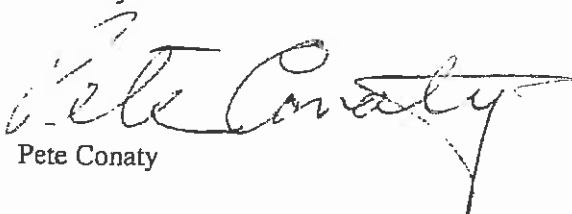
So now it is time to adjust ourselves to the new reality and move forward. I know you are already involved in discussions with your attorneys concerning how to challenge the new law within the court system.

Despite the defeat, it is not time to give up. It is the time to rally the troops together and look ahead to the next challenge to make sure that suction dredge gold mining returns to California. It is time to raise funds for lawsuits, political donations and to make sure that people are focused on the Department of Fish & Game and making sure that they do the Environmental Impact Report (EIR) in a timely and fair manner. We need to make sure that the EIR is completed using real science and not just done with an outcome pre-determined by environmental interests.

As the expertise of my company is in government relations, we are looking towards getting you as much support as possible from your friends in the Legislature as you progress through the Court-ordered California Environmental Quality Act (CEQA) process. Notwithstanding the outcome of any legal challenge you might wage, the sure way we can help to get you guys get back in the California Rivers is to help get the CEQA process completed as soon as possible! We can do that by having friendly legislators like Senator Sam Aanestad and Assemblyman Jim Nielsen keep the pressure on the Department of Fish & Game.

In closing, I want to say how meaningful it is to work with such a dedicated group of hard-working Americans. And while this battle did not come out in our favor, the war is far from over, and I am sure we will come out on top before it is all over.

Sincerely



Pete Conaty



**RESOLUTION NO. 223-2009**

**OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO  
SUCTION DREDGE GOLD MINING**

WHEREAS, gold was first discovered in 1848, on the banks of the South Fork American River in the Valley of Coloma and this County took its name in 1850, from a legendary utopia endowed with vast quantities of gold; and

WHEREAS, the State of California operates Marshall Gold Discovery Park in Coloma to preserve the memory of those daring and courageous pioneers whose early efforts laid the cornerstone upon which this County rests; and

WHEREAS, ancient geological forces supplied this County with a rare abundance of the noble metal and our gold-bearing streams continue to yield rewards of commercial and recreational value; and

WHEREAS, modern mining practice, as exemplified by suction dredging in our gold-bearing streams, is compatible with traditional resource use and it is our desire to foster commercial and recreational gold mining opportunities while providing for the protection and enhancement of other important resources; and

WHEREAS, the California Department of Fish and Game's Final Environmental Impact Report on Suction Dredge Mining dated April 1994, based on several peer reviewed, scientific studies on suction dredge mining states repeatedly that suction dredge gold mining has little, if any, negative impact on fisheries and aquatic habitat; and

WHEREAS, Dr. Robert N. Crittenden, an expert with an M.S. in Marine Biology and a Ph.D. in Fisheries, did a Post-Doctoral on the fellowship of salmon habitat and concluded that the recreational mining activities of panning, sluicing and dredging enhance the salmon habitat, and these activities should be encouraged as they provide one the most cost-effective enhancement techniques as a beneficial side-effect of private recreation; and

WHEREAS, suction gold dredge operators are conscientious stewards of the environment and consistently clean up debris in the stream beds of the rivers including, but, not limited to, household trash, fishing apparatus, boating apparatus, clothing, mercury and other heavy metals as a beneficial by-product of their endeavors and are the best equipped user group to accomplish a deep in stream clean up; and

WHEREAS, according to the Cosumnes, American, Bear and Yuba Planning Committee (CABY), which is comprised of a broad representation of various interest groups such as water agencies, conservation groups, counties, regional and agriculture groups, watershed collaboratives, tribe and recreational groups, and the South Fork American River Watershed Plan dated February 2009, states as their main objective a collaborative effort to reduce mercury contamination, and protect and restore the local streams and rivers; and

WHEREAS, on August 20, 2009, in a letter by Claudia Wise, a retired physical scientist/chemist with the United States Environmental Protection Agency, refers to the California State Water Board's Water Quality Division report (Humphreys, 2005), which indicates that suction gold dredging effectively removes at least 98% of the measured mercury processed through the dredge, and suggests it is right to look to the suction dredge community for help in locating hotspots and removing mercury from the river systems; and

WHEREAS, according to the CABY Website the Nevada Irrigation District will remove mercury contaminated sediment from the Combie Reservoir in the Bear River Watershed by the process of a floating dredge system; and

WHEREAS, according to the September 2009, ICMJ'S Prospecting and Mining Journal, suction dredge mining is a verifiable revenue generating industry in California of greater than \$65 million dollars, a portion of which is generated in El Dorado County; and

WHEREAS, the State of California has destroyed this historical industry by the passage of Senate Bill 670, banning suction dredge mining from rivers throughout the State without scientific basis or studies documenting any detrimental effects, if any, of dredging on the waterways; and

WHEREAS, Joseph C. Greene, a retired Research Biologist from the United States Environmental Protection Agency stated in a letter dated June 6, 2007, to the California State Water Resource Control Board that suction dredging moves a miniscule amount of in-stream material such as sand, gravel and silt compared to any high water event in a given year and has little if any negative effects on our rivers and streams; and

WHEREAS, no other user groups or activities, which have had an admittedly greater effect on the fisheries and aquatic habitat of our California rivers, according to the Department of Fish and Game's 1994 Final Environmental Impact Report on Suction Dredge Mining, have been banned from our rivers; and

WHEREAS, there is no known salmon runs above Folsom Reservoir in the American River watershed and California's ban on suction dredge mining (SB670) was passed under the guise of protecting salmon in Northern California; and

WHEREAS, the Bureau of Land Management's South Fork American River Management Plan of 2004, set parameters and limitations in its scope that does not allow for any alternative plan which would result in significant adverse environmental impacts, and accommodates suction dredging as an acceptable use; and

NOW, THEREFORE, BE IT RESOLVED, that the El Dorado County Board of Supervisors strongly request the State of California and its Governor to immediately suspend SB 670, which has banned suction dredging in California, and allow the California Department of Fish and Game to continue its appropriate regulation of this economically beneficial and environmentally harmless activity, which generates over ten thousand jobs and over \$65 million dollars worth of industry for our great State.

BE IT FURTHER RESOLVED, that the El Dorado County Board of Supervisors encourage other stream and river user groups, in recreation and business, to support and embrace the suction dredging community which is best equipped for the clean up of deeply embedded in-stream toxic metals and miscellaneous trash as a byproduct of their prospecting activities, thereby helping to restore the water quality of our local streams and rivers for the benefit of all.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 6th day of October, 2009, by the following vote of said Board:

Attest:  
Suzanne Allen de Sanchez  
Clerk of the Board of Supervisors

Ayes: Nutting, Sweeney, Knight, Briggs, Santiago  
Noes: none  
Absent: none

By: \_\_\_\_\_

Deputy Clerk

\_\_\_\_\_  
Vice Chairman, Board of Supervisors  
Raymond J. Nutting

**I CERTIFY THAT:**

**THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.**

**DATE:** \_\_\_\_\_

**Attest:** Suzanne Allen de Sanchez, Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By: \_\_\_\_\_

Date: \_\_\_\_\_

#24 1060,

LIVING HERE!

# OUTBOUND

day, August 13, 2009 | The Sacramento Bee | [sacbee.com/livinghere](http://sacbee.com/livinghere) ♦♦

ADVICE D2  
ON THE GO J3  
COMICS D4-D5  
TELEVISION D6

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D1

SACRAMENTO RIVER SALMON  
POPULATIONS HAVE COLLAPSED,  
BUT WAY UP NORTH THE TRINITY  
IS A GREAT PLACE TO ...

# Fish on!







Guide Jon Harrison rows and Hank Shaw anticipates the next action in the Trinity River during a salmon trip last month. Also aboard is Harrison's dog, also named Trinity.

HOLLY A. HEYSER

By HOLLY A. HEYSER  
Special to The Bee

Our guide uttered the magic words on the drive home from a jackcluster striped-bass fishing trip on the Sacramento River. For my boyfriend, Hank Shaw – who is obsessed with cooking – the abrupt/ah-ha moment came with a description of the fish: “They’re so fat it’s like they come with their own butter.”

I was hypnotized by a description of the river: “The water is so clear you can see 30 feet down. Some times you can see the fish coming in to take your bait. And some days you don’t see anyone else on the water.”



“We’re in,” we told Jon Harrison of Five Rivers Guide Service in Orangevale. We were going salmon fishing on the Trinity River.

Salmon fishing was becoming a distant memory for us with the unexpected collapse of the Sacramento River Chinook salmon run in fall 2007. The fish count inexplicably plunged to barely half of what was needed for a sustainable population. State and federal agencies responded by drastically curtailing salmon fishing in 2008, and again this year.

But salmon runs on the Klamath River and its tributary, the Trinity, are in better shape, so riches await anyone willing to make the 3½-hour trip north. And for Harrison, nothing compares to the Trinity.

“It’s my favorite of the rivers I fish,” he said, naming waterways: Sacramento, American, Feather, Yuba and Trinity.

“You can get away from people. It reminds me of my childhood fishing in the Sierras, but the fish are much larger.”

When we fished the Trinity with Harrison a few weeks ago, we targeted the spring run, the first of two Chinook runs on the river.

The fall salmon run, which is projected to be quite robust this year, is what brings anglers out in droves in September and October.

But the spring run is unusual: Instead of heading upstream and spawning fairly quickly as the fall fish do,

spring-run Chinook sprint up the Trinity as early as April and spend the summer loitering in deep holes until they reach

sexual maturity. Then they move into spawning beds.

(The spring run begins in mid-June, when water flows drop to manageable levels, and continues through August.

Fishers can catch and keep two salmon a day, starting in January. Possession is also limited to no more than two.)

Because salmon don’t feed after they enter fresh water, these fish must pack on the fat before leaving the ocean for the last act of their lives. That’s what Harrison meant when he said they come with their own butter. They’re as good as, or better than, ocean-caught salmon.

That was appealing to me because I’d caught one salmon in my life – a 22-pound monster, just south of downtown Sacramento – and rather than

SALMON 1 Page D7



HOLLY A. HEYSER

It’s hard to tell who’s more excited about a 29-inch salmon landed in by Holly Heyser – guide Jon Harrison or his dog Trinity.

almost: Barbleless hooks help throw-back and escaped fish stay alive



# Salmon: Barbless hooks help throw-back and escaped fish stay alive

FROM PAGE D1

being delighted with the feast I'd caught, I was put off. It tasted like the Sacramento River from which it had come.

Now we were just waiting for proof that the Trinity springers were everything Harrison said.

On the first morning of our two-day trip, we set out on the river at 5:30 a.m.

"You can't write where we are," Harrison said sternly, looking me in the eye.

We soon found out why: This stretch of the upper

Trinity River was virtually deserted, even though there were plenty of anglers in the area. We knew from the

empty trailer where we had parked that there was one boat in the water ahead of us,

but in more than seven hours on the river that day, we saw just one other angler - a man fishing from the bank.

Soon after putting in, Harrison rowed us in his drift boat just a short way downstream before stopping just above a pool that was dotted with

rocks covered by lush bunch grasses and Indian rhubarb. He spent a few minutes tying

sardine filets onto Quikfish lures, trussing them up with fishing line. Because salmon don't eat in fresh water, the idea wasn't to tantalize their

taste buds but to irritate



The spring-run chinook salmon is renowned for its high fat content.

them, prompting an attack.

Harrison dropped the first Quikfish into the water and

let line out until the lure hit the spot where he knew the

fish lay. Thunk! Thunk! A fish was on the line immediately. He handed the rod to

Hank, who started reeling, and then just as quickly the fish was free.

What had happened? Our barbless hooks, re-

quired on the Trinity and throughout the Klamath basin, would make it a challenge to land fish on this trip.

The hooks prevent killing the fish that anglers don't or can't keep, says Larry Han-

son, a senior biologist for the state Department of Fish and Game.

When Harrison dropped

hook. But Hank brought it back, and after several attempts with the net, we finally got it on the boat. Thirty inches long, about 20 pounds - well worth the wait.

This was the only fish we would get that day, but the next day I caught my limit of two by 8 a.m., the first 25 inches long, the second 29 inches. It was a respectable haul for a season in which the spring run has been described as average.

So how do Trinity springers taste?

Harrison hadn't exaggerated a bit. They were rich and decadent, as good as the best salmon we've ever had. We feasted for days and froze what we knew we couldn't eat soon.

Even if the salmon run on the Sacramento River rebounds and provides good salmon fishing much closer to home, I suspect we'll head back to the Trinity with Harrison every summer. We've fallen under the river's spell.

Holly A. Hegner teaches journalism at California State University, Sacramento, and writes a blog about hunting. Read more about this fishing trip - including rules of what Hegner and Shaw did with their catch - on Hegner's blog, [www.norcalquadrant.com](http://www.norcalquadrant.com), and Shaw's blog, [www.honest-food.net](http://www.honest-food.net).

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## SALMON FISHING ON THE TRINITY RIVER

Spring run: Mid-June through August. (You can catch and keep two fish per day. You can also have only two in your possession The limits apply starting in January, though most spring-run fishing begins mid-June.)

Fall run: September and October (limit three per day, no more than two adult fish; possession limit to nine, no more than six adults)

Guides include:

■ Jon Harrison of Five Rivers Guide Service, (916) 806-3119.

■ You'll other Trinity River fishing guides at [www.blm.gov/ca/silverfo/redding/recreationmain/fishguide.html](http://www.blm.gov/ca/silverfo/redding/recreationmain/fishguide.html).

Other salmon fishing in California:

■ Ocean: Aug. 29-Sept. 7, north of Horse Mountain in Humboldt County, limit of two fish per day, minimum size 24 inches

■ Sacramento River: Nov. 16-Dec. 31, from Highway 113 in Knights Landing to the lower Red Bluff (Sycamore) boat ramp, limit of one fish - per day and in possession.

Other things to do in Trinity County

■ Visit the Trinity County Chamber of Commerce at [www.trinitycounty.com](http://www.trinitycounty.com), or (800) 487-4648.

So, apparently the salmon fishing is great on the Trinity River in spite of it being one of the most heavily gold dredged rivers in Northern California. So, why has suction dredging been banned in the entire state under the guise of protecting salmon when, in fact, salmon runs don't exist on many rivers draining the Sierra Nevada Range and in fact on rivers where salmon runs are still healthy, the salmon seem to co-exist just fine alongside the gold dredging community. Something smells very fishy with this state-wide ban on suction dredging. Incidentally, this article on the great salmon fishing on the Trinity River was published exactly one week after the suction dredge ban was signed into law. The whole thing stinks.

24

Fw: SB 670, THANK YOU FOR ANY EFFORT TOWARDS THE REPEAL OF SB 670

The BOSTWO to: Kathryn L Tyler

10/05/2009 04:59 PM

Sent by: Kitty J. Miller

Cc: raynutting

Dredging...

----- Forwarded by Kitty J. Miller/PV/EDC on 10/05/2009 04:58 PM -----

Customer Service  
<filterstone@gmail.com>

10/02/2009 09:54 PM

To bostwo@co.el-dorado.ca.us

cc

Subject RE: SB 670, THANK YOU FOR ANY EFFORT TOWARDS  
THE REPEAL OF SB 670

**Please take a moment to read this.**

~~~~~

**California politicians blunder**

**It is absolutely established that a valid unpatented placer mining claim is in fact a Statutory Federal Grant of "private property" derived from 30 U.S.C. § 21-54. All unpatented placer mining claims situated in California are on federally owned lands, under jurisdiction of the USFS, or BLM. Otherwise none would exist, as federal land is the only place an unpatented mining claim can be initiated, and held.**

**As long as the Federal government retains title, the federal interest in providing free access to its own land in order to promote mining is sufficient to preempt any state law that fundamentally bans such use. Thus under standard preemption analysis any state legislation, or regulation that conflicts with this overriding federal purpose, must fail.**

**Under the Supremacy Clause, any state law that conflicts with a federal law is preempted. Gibbons v. Ogden, 22 U.S. 1 (1824). Any state legislation which frustrates the full effectiveness of federal law is rendered invalid by the Supremacy Clause" regardless of the underlying purpose of its enactors, Perez v. Campbell, 402 U.S. 637, 651-52, 91 S.Ct. 1704, 29 L.Ed.2d 233 (1971)**

**A conflict exists if a party cannot comply with both state law and**

**federal law. In addition, even in the absence of a direct conflict between state and federal law, a conflict exists if the state law is an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. Crosby v. Nat'l Foreign Trade Council, 530 U.S. 363, 372-73 (2000).**

**In determining whether a state law is a sufficient obstacle, the courts examine the federal statute as a whole and identify its purpose and intended effects and then determine the impact of the challenged law on congressional intent. State law can be pre-empted in either of two general ways. If Congress evidences an intent to occupy a given field, any state law falling within that field is pre-empted.**

**If Congress has not entirely displaced state regulation over the matter in question, state law is still pre-empted to the extent it actually conflicts with federal law, that is, when it is impossible to comply with both state and federal law, or where the state law stands as an obstacle to the accomplishment of the full purposes and objectives of Congress. California Coastal Comm'n v. Granite Rock Co., 480 U.S. 572, 581 (1987)**

**An 1998 8th Circuit Court of Appeals case revolving around near identical prohibitions on unpatented mining claims, wherein holders brought suit claiming that federal mining laws preempted ordinance prohibiting issuance of any new or amended permits for surface metal mining within area which included federal lands. Private landowner intervened to defend the ordinance.**

**The United States District Court for the District of South Dakota, Richard H. Battey, Chief Judge, 977 F.Supp. 1396, granted summary judgment for plaintiffs and enjoined the ordinance. Intervener appealed.**

**The Court of Appeals, Hansen, Circuit Judge, held that: (1) preemption claim was ripe, and (2) Federal Mining Act preempted ordinance. Affirmed; South Dakota Mining Association Inc v. Lawrence County, 155 F.3d 1005**



**The only locatable mineral on the majority of unpatented placer claims held under federal law is placer gold. Which is naturally concentrated in stream or river bed gravels, and usually no where else in worthwhile amounts. The only economically viable means to profitably recover placer gold in stream or river gravel is by “suction dredging”.**

**Accordingly, suction dredging is the “Highest & Best Use” of placer mining claims.**

**As a matter of fact, it is only viable use, as no other mining method is practical, economical, or profitable.**

**When the only viable use of an unpatented placer mining claim is by suction dredging, arbitrarily prohibiting that use (even temporarily) effects a complete “taking” of all economic benefit the owner could derive from it, for the duration of the ban.**

**The Fifth Amendment to the United States Constitution, made applicable to state and local governments by the Fourteenth Amendment, prohibits the government from taking private property for public use without just compensation.**

**The California Constitution provides, “Private property may be taken or damaged for public use only when just compensation ... has first been paid to, or into court for, the owner.” (Cal. Const., art. I, § 19.)**

**It is well established that just compensation... is the full value of the property taken at the time of the taking, plus interest from the date of taking. *United States v. Blankinship*, 9 Cir., 1976, 543 F.2d 1272, 1275.**

**Without doubt, S.B. 670 capriciously deprives thousands of families of their legitimate livelihood, and caused an immediate gross compensatory “taking” of valid existing rights, and compensable private property interests of considerable magnitude.**

**Neither the USFS, or BLM will enforce this state law, given that that federal statutes, and regulations preempt this suction dredging ban on unpatented placer mining claims situated on federal lands under their control in California. That clearly should give public notice the federal**

**courts will most certainly, and quickly take the same position the USFS/BLM has.**

**The Treasury of the State of California will ultimately be held liable to pay compensable damages to all those effected, accruing from August 6th 2009 forward. Until at least the illegal ban on suction dredging unpatented placer mining claims is lifted, or if necessary overturned by appropriate federal court action.**

**Plainly, Senator Wiggins who introduced this Bill, all the legislature that voted for it, and even the Governor failed to have S.B. 670 analyzed for critical federal preemption flaws, or significant "takings" liabilities it would create.**

**It would seem astute on the part of the California legislature to limit state financial liabilities here by swiftly correcting this law, to effect only a suction dredging ban on fee simple lands in California, which federal law may not preempt.**

**If not corrected quickly, state coffers will needlessly expend precious funds in paying attorney fees, and costs attempting to delay the inevitable overruling of S.B. 670 illegal provisions in federal court. Involved compensatory damages could well approach \$6,000,000 annually. If ignored, those applicable damages will certainly compound over time with interest, costs and attorney fees applied.**

**California politicians should ponder that the 3,200 other current California suction dredge permit holders, and approximately 21,000 other similarly situated owners of unpatented placer mining claims on federal lands in California will justifiably require compensation for their loss's S.B 670 directly caused them.**

**Once all affected are joined in a class action, which will most certainly prevail.**

**Who do these politicians think will be billed for that compensation? Without question, it will most certainly be the treasury of the state of California.**

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**"Under the mining laws a person has a statutory right, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) Federal lands for the purpose of mineral prospecting, exploration, development, extraction and other uses reasonably incident thereto." (See 30 U.S.C. § 21-54, 43 C.F.R. § 3809.3-3, 0-6).**

**Federal mining claims are "private property" Freese v. United States, 639 F.2d 754, 757, 226 Ct.Cl. 252 cert. denied, 454 U.S. 827, 102 S.Ct. 119, 70 L.Ed.2d 103 (1981); Oil Shale Corp. v. Morton, 370 F.Supp. 108, 124 (D.Colo. 1973).**

**This possessory interest entitles the claimant to "the right to extract all minerals from the claim without paying royalties to the United States." Swanson v. Babbitt, 3 F.3d 1348, 1350 (9th Cir. 1993).**

**16 U.S.C. § 481, Use of Waters: All waters within boundaries of national forests may be used for domestic, mining, milling, or irrigation purposes under the laws of the state wherein such national forests are situated or under the laws of the United States and the rules and regulations established thereunder.**

**"Uncompensated divestment" of a valid unpatented mining claim would violate the Constitution. Freese v. United States, 639 F.2d 754, 757, 226 Ct.Cl. 252, cert. denied, 454 U.S. 827, 102 S.Ct. 119, 70 L.Ed. 2d 103 (1981).**

**Even though title to the fee estate remains in the United States, these unpatented mining claims are themselves property protected by the Fifth Amendment against uncompensated takings. See Best v. Humboldt Placer Mining Co., 371 U.S. 334 (1963); cf. Forbes v. Gracey, 94 U.S. 762, 766 (1876); U.S.C.A.Const. Amend. 5; North American Transportation & Trading Co. v. U.S., 1918, 53 Ct.Cl. 424, affirmed 40 S.Ct. 518, 253 U.S. 330; United States v. Locke, 471 U.S. 84, 107, 105 S.Ct. 1785, 1799, 85 L.Ed. 2d 64 (1985); Freese v. United States, 639 F.2d 754, 757, 226 Ct.Cl. 252, cert. denied, 454 U.S. 827, 102 S.Ct. 119, 70 L.Ed. 2d 103 (1981); Rybachek v. United States, 23 Cl.Ct. 222**

**(1991).**

**A valid location, though unpatented, is a grant in the nature of an estate in fee and if such an estate is taken by the United States, just compensation must be made. See U.S.C.A. Const. Amend. 5, North American Transportation & Trading Co. v. U.S., 1918, 53 Ct.Cl. 424, affirmed 40 S.Ct. 518, 253 U.S. 330**

**Such an interest may be asserted against the United States as well as against third parties (see Best v. Humboldt Placer Mining Co., 371 U.S. 334, 336 (1963); Gwillim v. Donnellan, 115 U.S. 45, 50 (1885)) and may not be taken from the claimant by the United States without due compensation. See United States v. North American Transportation & Trading Co., 253 U.S. 330 (1920); cf. Best v. Humboldt Placer Mining Co.**

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### **Ignorance of the Law excuses no one Especially, California lawmakers**

**The California Legislature in passing SB 670. A law which illegally prohibits all gold mining by small scale suction dredging state wide for an indefinite period of time. Displays a perfect example of disregard for the Rule of Law by the California state legislature.**

**It is at best sad, if not horrific private citizens have to remind elected officials the U.S. Constitution mandates that "no private property shall be taken for public use without just compensation. Likewise, the Constitution of California mandates the state is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land.**

**That a person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws; and Private property may only be taken or damaged for a public use when just compensation, has first been paid to the owner.**

**California was admitted into the Union upon the express condition that the people of said State, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned;**

**And that all the navigable waters within the said State shall be common highways, and forever free, as well to the inhabitants of said State as to the citizens of the United States,**

**without any tax, impost, or duty therefore.**

**Indisputably, under both federal, and state law, a valid unpatented placer mining claim is in fact "private property", granting the owner the right to mine it, and profit from the flow of income derived from doing so.**

**No one disputes, the state has the right to reasonably regulate suction dredge mining to protect the environment. However, under federal law prospecting, locating and developing mineral resources on federal lands, which comprise 45% of California may not be prohibited nor so unreasonably circumscribed as to amount to a total prohibition.**

**Plainly, suction dredging is the only practical, economical and environmentally sound gold mining method available to citizens of ordinary means, who own placer mining claims. There is no other viable method to mine placer gold concentrated on or near bedrock in river, or stream gravels.**

**Clearly, taking an Oath of Office, that they will support the Constitution of the United States, and the Constitution of the state of California, to faithfully discharge those duties elected state officials are obligated to know the very foundation of the Rule of Law, and facts of any matter they are to govern.**

**The facts here are straight forward. The major impetus behind SB 670 is supposedly to protect water quality, and the spawning grounds of threatened or endangered Salmon & Steelhead runs in California.**

**Fact: The exterior boundaries of salmon / steelhead watersheds cover a total of only about 1/3 of the state of California. Precise maps of applicable waterways show them to be less than 8% of the state.**

**2/3rds of California contain no salmon / steelhead habitat. Obviously, no protection is necessary, where no salmon habitat exists. Yet illogically the SB 670 suction dredge ban is statewide.**

**Fact; There are 64,438 miles of rivers, and 124,615 miles of streams, totaling 211,513 miles of waterways in California.**

**If the 3,200 suction dredge permit holders were to operate simultaneously, there would only be one single suction dredge operating per 70 miles of existing California waterways. If half that number were operating simultaneously, there would only be one single suction dredge operating per 140 miles of waterways. Given that fact, suction dredging has so small an impact, it cannot be more than negligible.**

**Fact: Massive unrestricted hydraulic mining began in California circa 1853 and ended in 1884. Bucket line dredge mining began in California circa 1890, diminished during WW2 and ended about 1960.**

**The combined effects of those antiquated gold mining methods was to wash about two billion tons of silt, sediment, & tailings, as well as approximately 5 million lbs of mercury into California streams, and rivers that are salmon / steelhead habitat.**

**Certainly, those mammoth sized gold mining methods had a wide range of devastating effects on water quality & salmon habitat environment. Even so, California salmon, steelhead & trout populations remained relatively stable throughout that 80 year span of time.**

**Given that fact, plainly, the effects of modern day small scale suction dredging are so infinitesimally small, they are realistically of no practical consequence on water quality & fish habitat.**

**Fact: Proponents argue suction dredging stirs up & disperses mercury lost in California waterways from historic gold mining methods.**

**Reality: The argument is totally without merit, as modern day suction dredges catch, recover and remove 98% of mercury passing through them. Which is beneficial to the environment, rather than adverse to it.**

**Fact: SB 670 mandates a state wide study of suction dredging effects, costing tax payers \$1.5 million dollars.**

**Reality: Dozens of peer reviewed authoritative scientific studies of small scale suction dredging performed by numerous federal, state agencies, and universities exist already. All those study reports clearly show suction dredging has only a fleeting negligible effect on water quality & fish habitat.**

**Given the massive amount of credible scientific information & reports that already exist on the subject. Any competent agency could simply compile those reports, then draw reasonable unbiased conclusions from them, rather than duplicate identical studies at great cost to the tax payer.**

**Fact: Pre SB 670 DF&G regulations prohibit suction dredging in rivers, or stream areas during times when critical life events of salmon occur.**

**Reality: Because suction dredging was already prohibited in areas & at times where critical salmon life events occur. Suction dredging cannot have any more than negligible impact on salmon spawning habitat, as no suction dredging takes place during those events.**

**Fact: Fiscal Effect: According to the Senate Appropriations Committee, SB 670 has negligible state costs.**

**The truth: According to a recent study the fiscal effects of SB 670 will cause economic loss**



**between \$60 to \$100 million dollars annually. Primarily forced on individuals, mining claim owners, small business entities, and suction dredge manufactures.**

**Fact: SB 670 is said to impose a temporary 2 year ban on suction dredging.**

**Reality: DF&G was previously court ordered to complete a suction dredge study, and failed to do so. Given that history, DF&G may take years, a decade, or possibly never complete the SB 670 study. As such, for all practical purposes the SB 670 suction dredge ban is indefinite.**

**Fact: SB 670 was passed as an “urgency” measure, to take effect immediately, based on “findings” by the legislator that suction dredging results in various adverse environmental impacts on protected species of fish.**

**Reality: CF&G previous study shows only fleeting negligible adverse impact, and their own existing regulations minimize all potential impact by prohibiting suction dredging in places, and times where critical life events of salmon occur.**

**Moreover, the legislature continues to ignore dozens of credible studies that clearly show small scale suction dredging has only a fleeting, and negligible impact on water quality, and fisheries. No environmental emergency exists, but the California legislature arbitrarily declares one here, to imposed an illegal law immediatly.**

**Fact: Astute legislators always submit proposed laws to the state attorney generals office for a legal opinion whether the new law will cause, or create compensable takings of private property, create financial liabilities to the state, and/or could the proposed law be preempted by overriding federal law. Resulting in federal court challenges from affected damaged parties, that cannot be well defended, nor won.**

**Reality: The California legislature apparently did not ask the state attorney generals office for any legal opinion regarding the effects of SB 670. Thus, the legislature proceeded blindly, without full knowledge of the legal facts, consequences, ramifications or possible damages of their actions.**

**Fact: Unquestionably, massive water diversions to irrigate California's agricultural crops, hydroelectric dams to power all of California's electrical needs, agricultural pollutants, industrial pollutants, logging effects, over fishing, aversive ocean conditions, are obviously the primary cause of salmon population declines.**

**Those California water, and fish habitat pollution issues are so huge, the truth is California legislature can do little to abate them, without shutting down the very infrastructure of the state.**

**Instead of tackling the real pollution issues affecting water quality, and fish habitat. California politicians chose to attack, and unjustly prohibit small scale suction dredging,**

**who's overall impact is so small, it is of no realistic consequence.**

**The reality here is that proponents of SB 670 used a progressive smear campaign disseminating volumes of misinformation, disinformation, distorted Nazi style propaganda, and outright lies in the hope of fostering the political view that suction dredge gold mining by a relatively tiny group of individuals in California is a major cause of water quality pollution, causing the decline of local salmon populations.**

**Ponder for a moment, near 3 million California fishermen, casually kill fish as leisure sport. California's commercial fishermen kill fish for profit. Various California Indian tribes, some with, and some without federally protected rights to harvest fish with dip nets kill massive numbers of salmon every year. These are the very groups that supported SB 670. To anyone with common sense, the hypocrisy in that is astounding.**

**California fishermen themselves annually cast out, and lose more than 100 tons of lead, innumerable metal swivels, millions of steel hooks, and immeasurable lengths of monofilament plastic fishing line into waterways.**

**Then, have the gall to point fingers, loudly proclaiming suction dredging harms water quality, and is causing the decline of salmon populations. When, in fact there is no credible evidence, suction dredging has ever harmed, or killed a single salmon.**

**Ponder for another moment, the combined pollution caused by all motorized boating in California exceeds many million fold any possible adverse effect small scale suction dredging has on waterways with California. Yet, California politicians would never ban recreation boating within the same waterways suction dredgers dredge in.**

**Apparently the California politicians who voted for passage of SB 670 are so blind, so gullible, so easy to fool they did not even take the time, or make the effort to determine what the truth, and facts of this matter, they themselves then vote on.**

**Plainly, It is impossible to make a fair, honest, unbiased judgment, or decision in any matter, without full knowledge of the true facts of any matter before you. Making any uniformed judgment is against the very oath of office they swore to uphold, and is in complete distain of the fiduciary duty every legislator has to govern fairly. To do otherwise, is negligent malfeasance.**

**SB 670 has caused, and will continue to cause tens of millions of dollars in gross economic loss annually to depressed rural areas of California. SB 670 illegally deprives 3,200 suction dredge permit holders, about 21,000 placer mining claim owners the right to mine gold they own, in the most viable, efficient, profitable, and environmentally friendly manner possible.**

**Sadly, California politicians in passing an illegal statewide prohibition on suction dredge mining, have forced those damaged to file a federal court action, to protect their mining**

**rights, and to recover damages this irreconcilable law caused.**

**Anyone cognizant of the law, as previously decided in cases like California Coastal Commission et al., v. Granite Rock Co., 480 U.S. 572, 592, 107 S.Ct.1419, 1425 (1987). Which determined....."State and local regulations which render a mine commercially impracticable cannot be enforced".**

**Or another similar case, where mining on federally protected unpatented claims was prohibited, the court found, (1) preemption claim was ripe, and (2) Federal Mining Act preempted ordinance. Affirmed; South Dakota Mining Association Inc v. Lawrence County, 155 F.3d 1005**

**Given the law, the irrefutable fact that federal law preempts conflicting state law, and clear legal precedents already established. There is no doubt, this suction dredge mining ban will be flatly rejected, as plainly preempted by overriding federal law. The only issue left, would be to decide who is entitled to damages, and the amount.**

**The truly sad thing here, is all the pain, suffering, harm, depravation, loss and damage forced on a small minority, intentionally caused by California politicians willfully passing a law that clearly will not withstand a federal court challenge. For shame, as they are obligated to know better.**

**Gold mining is as quintessential to California, as a fish is to water. To illegally ban the right of a prospector, to mine what he struggled so hard to find, claimed, developed, owns, pays property tax on, and invested all he could, that he might profit from any gold he works so hard to recover, is abhorrent to any free mans sense of justice.**

**Apparently, California politicians lack such understanding, even though a clear reminder is often worn on their own finger, in the form of a gold wedding ring. The gold in it, may well have been mined in California, by a prospector. That same small minority group they have now unfairly disenfranchised, with the passage of SB 670.**

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**CALIFORNIA ADMISSION TO Union**  
**Act for the Admission of California Into the Union**  
**Volume 9**  
**Statutes at Large**  
**Page 452**

**Whereas, the people of California have presented a constitution and asked admission into the Union, which constitution was submitted to Congress by the President of the United States, by message date February thirteenth, eighteen hundred and fifty, and which, on due examination, is found to be republican in its form of government:**

**Be it enacted by the Senate and House of Representatives of the United States of America in**

Congress Assembled, That the State of California shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.

Sec. 2. And be it further enacted, That until the representatives in Congress shall be apportioned according to an actual enumeration of the inhabitants of the United States, the State of California shall be entitled to two representatives in Congress.

**Sec. 3. And be it further enacted, That the said State of California is admitted into the Union upon the express condition that the people of said State, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned;**

and that they shall never lay any tax or assessment of any description whatsoever upon the public domain of the United States, and in no case shall non-resident proprietors, who are citizens of the United States, be taxed higher than residents;

**and that all the navigable waters within the said State shall be common highways, and forever free, as well to the inhabitants of said State as to the citizens of the United States, without any tax, impost, or duty therefor.**

Provided, That nothing herein contained shall be construed as recognizing or rejecting the propositions tendered by the people of California as articles of compact in the ordinance adopted by the convention which formed the constitution of that State.

Approved, September 9, 1850.

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#### **THE LAWSUIT AGAINST SB 670**

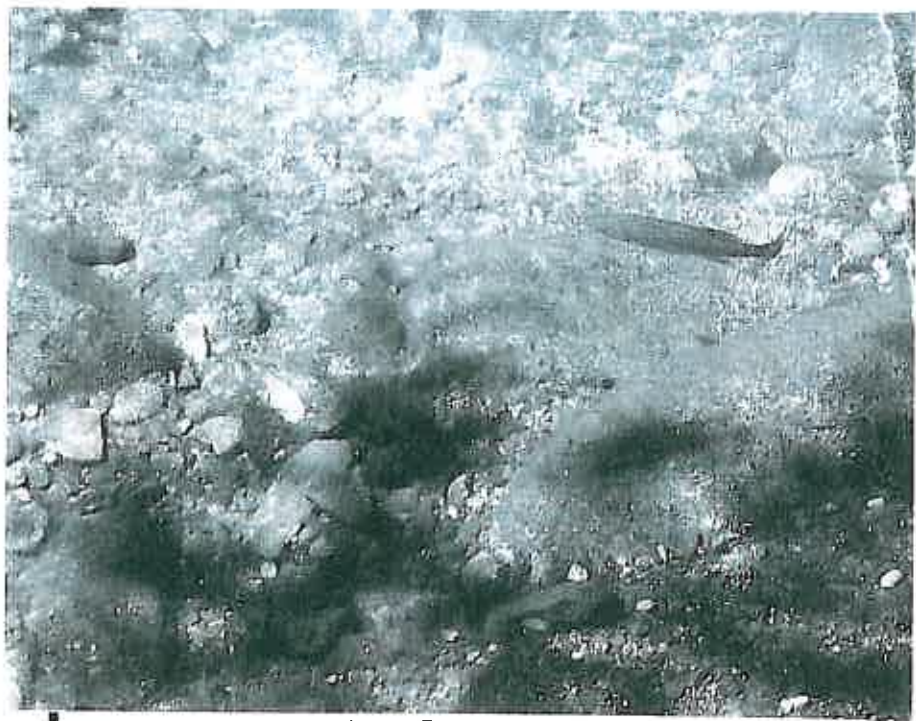
<http://www.courthousenews.com/2009/09/16/SuctionMining.pdf>

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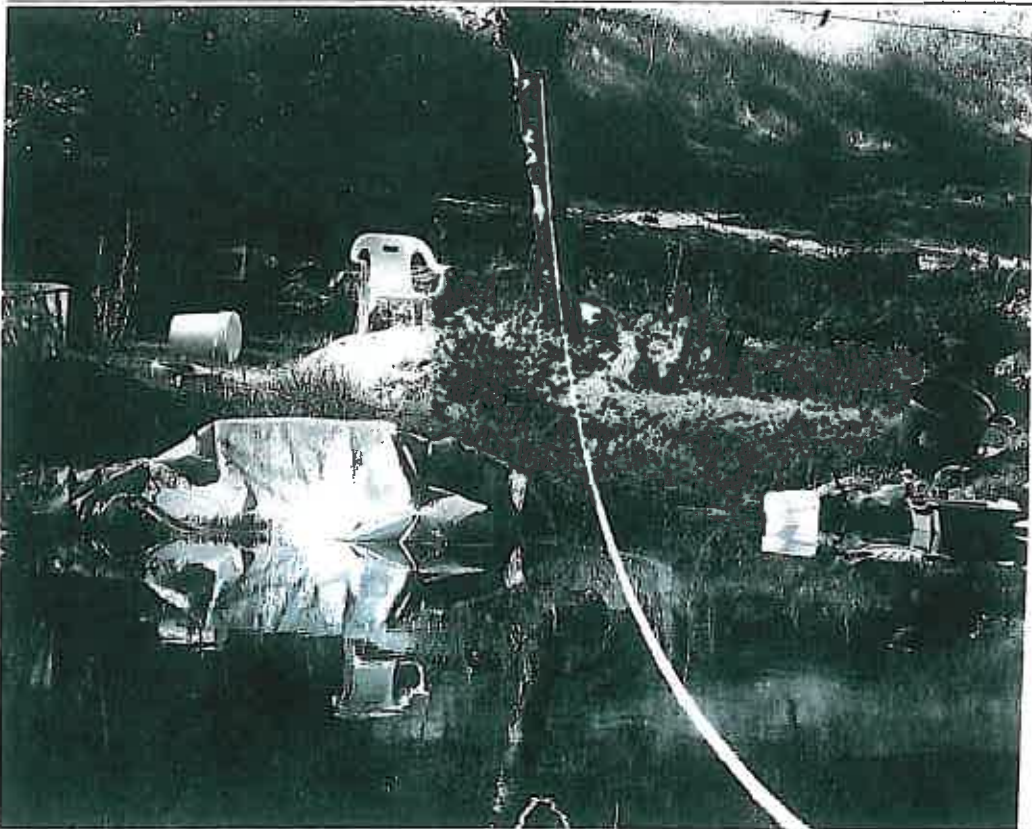
Jim Aubert & family  
[filterstone@gmail.com](mailto:filterstone@gmail.com)

**Crystal Clear Waters  
of the Cosumnes after  
over 150 years of  
dredging and sluicing**

**Water 6' deep . Note fish**



**Can this really require a moratorium???**



**Arkansas Mining Company  
site Two.**

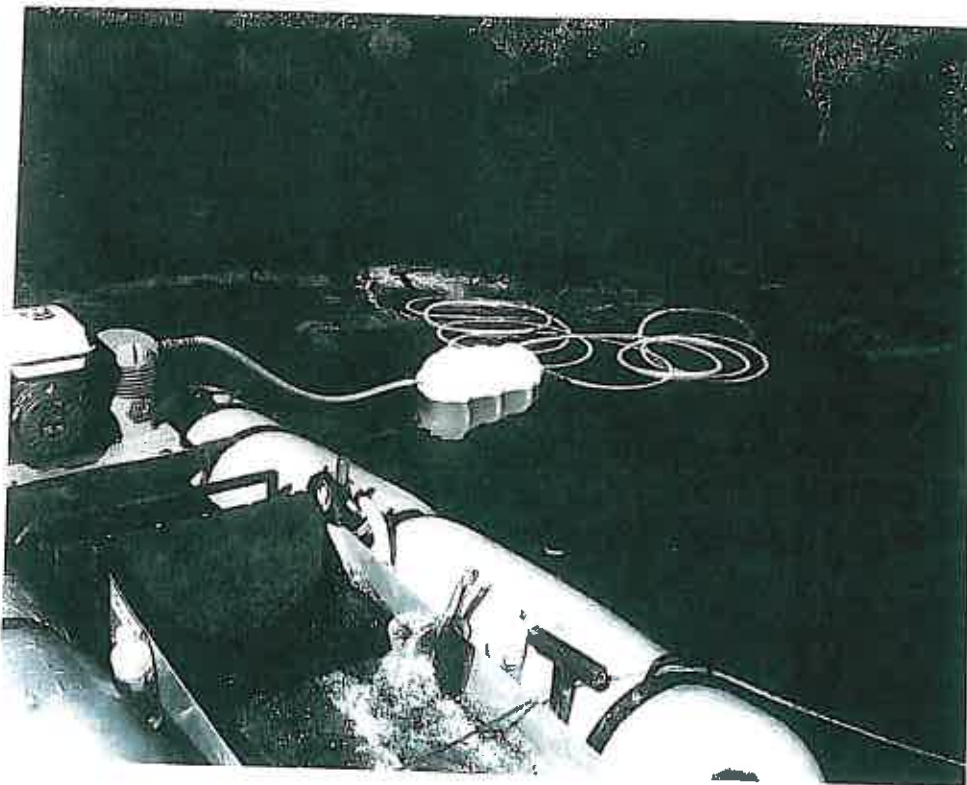


**Arkansas Mining Company  
Site One**

**4 " Suction Dredge  
with hookah  
air system.**



**Note: Size of dredge  
Clarity of water, 8' deep  
can still see dredger  
Amount of water  
moved through sluice**



## **Fruits of our Labor**

### **Small Glass Vial----Large Established Commraderie**



**Grandson's Wedding Rings made by goldsmith's Gallery in Placerville from gold accumulated over 16 years of annual visits to Gramma's. Governments should not be allowed to take this type of tradition away!**

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**Fw: Suction Dredging Resolution**  
**The BOSFOUR** to: Cynthia C Johnson  
Sent by: **Terry L Gherardi**

10/05/2009 02:29 PM

Terry Gherardi  
Assistant, District IV  
El Dorado County Board of Supervisors  
Ron Briggs, Supervisor  
530-621-6513

----- Forwarded by Terry L Gherardi/PV/EDC on 10/05/2009 02:29 PM -----



**"jmakiney"**  
<goldpan@directcon.net>  
10/05/2009 01:33 PM

To <bosfour@co.el-dorado.ca.us>  
cc

Subject Suction Dredging Resolution

Please support the Resolution in support of suction dredging and against SB 670. As residents of El Dorado County, suction dredgers, and licensed fisherman, my husband and I hope that you will continue this County's support of suction dredging by voting for the resolution at tomorrow's Board meeting.

Thank you,

Jan and Stan Makiney

1363 Crooked Mile Ct.  
Placerville, CA 95667  
(530) 642-8369

10/2/2009  
24

To county board of supervisors; I Rick Eddy strongly support gold suction dredging. It has been proven time and time again that suction dredging is not harmful to the environment. It can actually enhance the environment by providing good spawning grounds for fish. Bill sb670 was to protect the salmon and there are no salmon on the south fork of the American river. And most other streams and rivers in Eldorado county. There was no reason to close dredging while doing another E.I.R. Federal mining law prohibits this. While dredging on the south fork the last couple of years. I have built-up a good relationship with most of the rafting guides on the south fork. They would stop by every day and ask to see are gold and educate their clients about suction dredging. Eldorado county stands to lose a lot of money as a result of closing all suction dredging. So I ask you to please support suction dredging as another recreational activity in Eldorado county and bring back some more jobs. Thank you Rick Eddy Pilot Hill.

x Rick Eddy

## Auburn store faces closure if dredging legislation signed

**Downtown's Pioneer Mining Supplies offers gear for gold seekers**

**BY GUS THOMSON**  
JOURNAL STAFF WRITER

The clock is winding down on a living link to Auburn's Gold Rush past.

And the closure of Pioneer Mining Supplies could be hastened by the stroke of Gov. Arnold Schwarzenegger's pen.

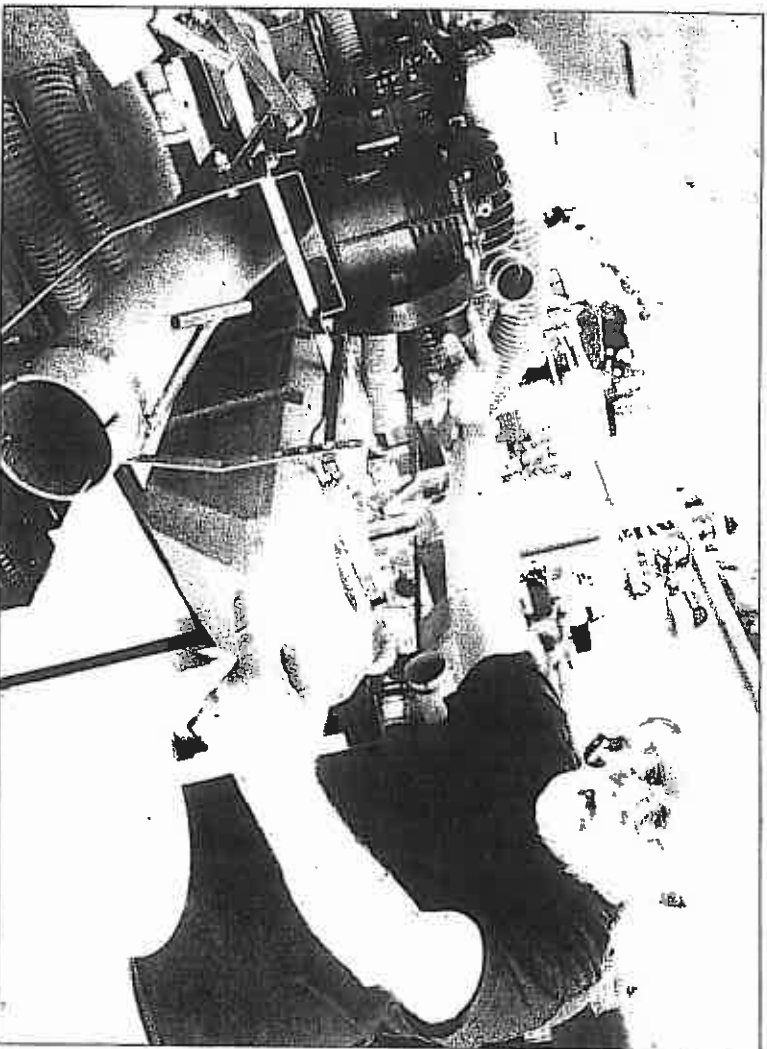
Frank Sullivan and Pioneer Mining Supplies have been selling dredges, pans and other gold mining supplies from a Downtown Auburn storefront for the past 28 years.

In a store loaded with everything a gold-seeker needs to set out in search of fortune, Sullivan and his staff of two other full-timers and a part-time worker are watching the steady march in Sacramento of Senate Bill 670.

The bill would shut down dredging and take away what he said would be 40 to 50 percent of his business.

The state Senate and Assembly have both passed the bill and — with the Senate's 28-7 vote Monday — it could be signed by Schwarzenegger.

The bill places a moratorium on suction dredge mining in all California rivers, streams and tributaries until a state envi-



Frank Sullivan of Pioneer Mining Supplies is concerned that a suction dredging ban would put his Downtown Auburn store out of business.

ronmental review is completed.

Sullivan said his business — already stung by lower revenues because of the recession — is hoping the governor will hold off signing the bill so dredging can continue through the current dry season.

A state Department of Fish & Game environmental review would eventually provide new

guidelines.

With visitors coming into his store for recreational dredging from as far away as Europe and Australia, Sullivan said the loss of the opportunity to seek gold with the suction dredge equipment will have an impact on local tourism — from accommodation facilities to restaurants.

For Pioneer Mining Supplies — the only fully-stocked mining equipment store in the area — it would mean closure, he said.

Outside the Capitol, the dredge debate pits gold seekers against Indian tribes, fishing advocates and environmental groups.

The Karuk tribe of Northern California initiated the attempt to ban suction dredging in response to what it says is damage to its wild-

salmon food fishery.

Craig Tucker, Karuk tribal spokesman, said Tuesday that there are an estimated 3,000 suction dredgers around the state going up against fishing hobbyists who are issued 2.4-million permits a year.

The tribe has "every reason to think" the government will sign the bill, he said.

The tribe, which occupies the Klamath River basin, had an Alameda County judge grant a preliminary injunction against issuance of new suction dredge permits last Friday.

The order doesn't prohibit dredgers who already have permits to continue but Schwarzenegger's signature would.

State Sen. Sam Aarnestad, R-Grass Valley, said in a statement he's "extremely disappointed" with a vote that could result in closed businesses and lost jobs in his 4th Senate District.

"This bill will cause economic hardship to the rural communities and the small business owners who depend on this industry as a source of income," Aarnestad said.

The Journal's Gus Thomson can be reached at gus@goldcountrymedia.com or comment at Auburnjournal.com



encouraged to make their suggestions as specific as possible and also to limit the suggestions to those that will implement or make specific the provisions of Proposition 65 while furthering the purposes of the Act. Suggestions for changes to the law itself are beyond the scope of this project.

Interested parties may also submit their ideas on the regulatory update project by 5:00 p.m. on November 16, 2007. All submissions should be directed to:  
Carol J. Monahan-Cummings  
Chief Counsel

\*\*\*\*\*

For any of you who have not yet heard the news, here is Gov. S's veto message and the link to this message on the web is :  
[http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_1001-1050/ab\\_1032\\_vt\\_20071013.html](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_1001-1050/ab_1032_vt_20071013.html)

BILL NUMBER: AB 1032  
VETOED DATE: 10/13/2007

To the Members of the California State Assembly:

I am returning Assembly Bill 1032 without my signature.

The purpose of this bill is to protect fish and wildlife from the potential deleterious effects of suction dredge mining. Although I appreciate the author's intent and the need to protect our fish, wildlife, and water resources, this bill is unnecessary.

Current law gives the Department of Fish and Game (Department) the necessary authority to protect fish and wildlife resources from suction dredge mining. It has promulgated regulations and issues permits for this activity. Permits for suction dredge mining must ensure that these operations are not deleterious to fish and allow the Department to specify the type and size of equipment to be used. In its regulations, the Department may also designate specific waters or areas that are closed to dredging.

It is unclear why this bill specifically targets a number of specific waterways for closure or further restrictions. The listed waterways represent only a small fraction of the waters in our State where suction dredging is occurring. The benefit or protection from such a minor closure is negligible and supports the notion that scientific environmental review should precede such decisions.

Sincerely,

Arnold Schwarzenegger

----- Original message -----

» sacbee.com

## WRITING FOR VIEWPOINTS

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# VIEWPOINTS

ROGER NIELLO | Special to The Bee

## Quit hammering state's small businesses

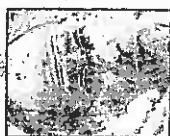
This just in: California businesses are overregulated. No, really — they're really overregulated. But don't take my word for it. In 2006, the Legislature passed a bill with bipartisan support to request an independent report on the total cost of regulation to the California economy.

The study was headed by Sanjay Varshney, professor of finance and dean of the College of Business Administration at California State University, Sacramento.

Unlike existing qualitative studies on the topic, this groundbreaking quantitative study focused on actual losses in economic output, losses in jobs, indirect losses in business taxes and finally, losses in income. The study sought to replicate a federal study that measured the cost of regulation and its impact on small business on a national scale.

Well, the numbers are in: \$492.99 billion is the figure the study arrived at through this in-depth analysis; nearly five times the state's general fund budget and almost a third of the state's gross product. And that doesn't include the recently enacted AB 32 carbon tax regulations.

Roger Niello is a Republican assemblyman from Fair Oaks.



In Sacramento, the command-and-control contingent approaches the regulatory impact on business as an either/or. Either deal with the regulatory burden while enjoying the physical and intellectual resources California offers or hit the road for less-restrictive pastures. They bet on the former, but more and more the state's bluff is being called.

To hear them talk, it's those big, bad corporations we're after. Crack down on corporate greed! Take heed, Walmart! Never again, Enron! But small business? You'll rarely hear a legislator speak unkindly of small business, though they account for 99.2 percent of all employer businesses in California. But this study clearly shows it's small business that is bearing the brunt of the "Big Business" crusade. Talk about catching dolphins in your tuna net. We

shouldn't be surprised that our state's economy is still tanking as other states begin to show signs of recovery.

But where does all this regulation come from? Like so many other things, it began with good intentions. In our zeal to "protect" things (consumers, workers, the environment, etc.) some of which are necessary, we are protecting California to death in a risky game of "we know better." For example, it seems ironic that in an effort to "protect" labor, we're losing 3.8 million jobs a year — a tenth of the state's population.

Some regulation is necessary and contributes to the environmental, labor and consumer protection standards we enjoy here in California. But we have gone too far.

Take labor laws, for instance. Legislators who vote against allowing technology workers to work four 10-hour days instead of five eight-hour days are surely thinking of the farmworkers toiling in the fields. But who are we to tell the two-hour commuter he can't arrange an alternative workweek with his employer to spend an extra day with his family? One size clearly does not fit all.

Americans with Disability Act laws are another example: well intended to protect access for physically disabled individuals, but anyone who's been following the news lately has no doubt seen countless examples of businesses that have gone under because they couldn't afford the legal costs to deal with an ADA lawsuit.

An additional consequence of excessive regulation is that those businesses with the wherewithal to adapt — likely bigger businesses — will do so, and the regulator will always be one step behind. Those who can't — likely smaller businesses — will be forced to move out of the state, or if they stay, will stop expanding. As this study shows, in an "It's a Wonderful Life" way, we'll never really know what might have been for them.

It's tough to pinpoint precisely which regulations should stay and which should go. It's truly a "death by a thousand cuts" that plagues small businesses; a nip here, a tuck there, and before you know it, a compliance labyrinth.

That said, we need to adopt legislation like that proposed by Sen. Rod Wright, D-Inglewood, this past session. Senate Bill 356, of which I am a

co-author, would simply ask small businesses how proposed regulations would affect them. Seems like a good idea to me.

Another proactive step we can take as a legislative body is to put a "sunset clause" in many and all new regulations we pass. This would allow us to consider the cost-benefit balance of a particular protection. We might also consider Arizona's approach, wherein a commission oversees regulatory authorities.

Additionally, it might not be a bad idea to take the "bounty hunting" aspect away from regulatory bodies; fines charged would be redirected to the general fund, not to the agency in charge of levying the fines.

So next time the Legislature rises on "Small Business Day" to publicly honor these drivers of our economy with fancy resolutions, the Legislature should also vow to show restraint when no one's looking.

What's good for small business is good for California, and it's time we started behaving as such. If our economy is to do a 180-degree turn, it will be because we treat California's businesses as our partners in recovery, not as subjects in our fiefdom.

Assemblyman Gaines, an avid car enthusiast, is also the chairman of the Legislative Automotive Study Group, a bipartisan caucus of legislators that promotes the automotive industry in California.

For photos and video of the race, visit Assemblyman Gaines' website.

## STUDY REVEALS IMPACT OF REGULATIONS ON SMALL BUSINESS



I recently joined a group of Assembly Members at an event at the State Capitol to discuss an important study recently released by the Governor Schwarzenegger's administration highlighting the cost of state regulations on businesses and taxpayers in California.

What we learned from this report was truly startling, and underscores the need for the Legislature to change its attitude when it comes to growing our economy and encouraging job creation in our state. Consider these statistics from the report:

- The total cost of regulation to the state is \$492.994 billion, almost five times the State's General Fund
  - The total cost of regulation was \$134,122.48 per small business in California in 2007
  - The total regulatory cost of \$492.994 billion translates into a total cost of \$38,446.76 per household, or \$13,052.05 per resident
- There is no doubt that the cost of doing business in California is one of the highest in the nation and this study shows that the over-regulation small businesses face contribute to the soaring costs. As a small business owner myself, I know how much our hard-working citizens are over-taxed, over-burdened, and continue to drown in the overload of government requirements and restrictions.
- We need to bring jobs and opportunity back to our state and that can be done by relieving the burden on our small businesses. Until we relieve the pressure, we will continue to see these soaring costs and disappointing statistics on how regulation is killing jobs in our state. I will be working hard in the coming months along side my colleagues to find ways we can give business this much-needed relief.
- The full study can be found by clicking here.

## COMMUNITY CORNER

Assemblyman Gaines will be hosting a series of mobile district office hours and community coffees to get in touch with you directly.

"An elite, few number of teams make it as far as the Lakeside Little League team did in the championship series this year," Gaines said. "This is an incredible accomplishment for the Lakeside team and we are proud to honor the players and coaches here at the State Capitol with the certificates and recognition they deserve."

## LEGISLATIVE SESSION WRAP-UP: THE WORST OF THE WORST

More than 900 bills were passed in the Legislature this year. Here is a highlight of a few of the year's worst bills.

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24



**Re:**

From: "Jim Foley" <jfoley@sisqtel.net>

To: "Kathryn and Steve" <kathryncloset@yahoo.com>

2. 0 11:21 AM

Friday, October 2, 2009 10:07 AM

Thanks for nudging me Steve. I get so spaced out with "stuff to do" that things get put aside. I have read your resolution and it is good. I will go over the final draft that you just sent also.

I have already planned to be there at the meeting even though it is a six hour drive and gas prices are through the roof here. I am bringing a friend that works with me on political stuff at times.

My initial thoughts on the BOS presentation is that your final draft , although right on as far as facts and legal issues go, is the same stuff we have presented to the State Government time and time again. They just don't listen.

I would like to make my presentation from a different standpoint, touching on the 1866 Mineral Estate grant, which is an act of congress that grants us the right to mine. It is illegal for any state or agency to try to go around this grant. I also want to introduce the board to "coordination", which is a very powerful tool that all government entities have and most are not aware of. Through coordination, government entities, like the BOS can demand that they be consulted and listened to regarding new laws and agency decisions.

I will need the actual address that the meeting will be held at, I am not familiar with you area of

California. If you have a cell phone, I would like that number also, so that I can coordinate with you before the meeting. I also need to know if I as a speaker, will be limited in speaking time. here in Siskiyou County, a speakers time is usually limited to three minutes, unless they are presenting stuff for the board resolution.

Here is a link to information about the mineral estate grant, it is powerful and being used in Oregon right now to force authorities to listen and change how they treat miners.  
<http://www.grantedright.com/>

Best regards,

Jim

At 09:08 AM 10/2/2009, you wrote:

Jim, I hope you had a chance to look over your email from me and would like to participate in encouraging our El Dorado County Board of Supervisors to pass this resolution in favor of suction dredging and exploring the state to rescind this devastating dredge ban. Enclosed is a finished copy of the resolution to be addressed at 11:30 on Oct. 6 09 in the EDC Board chambers. Your presence would be welcome and or comments addressed to [bostwo@co.el-dorado.ca.us](mailto:bostwo@co.el-dorado.ca.us) Thanks for your support. Please call me if you need a place to stay or for further information. Steve Tyler



530 677 6311

---

James Foley  
Property and Mining Rights Advocate  
Klamath River, California

--- On Fri, 10/2/09, ROSS PETTIT <rossfisherman@yahoo.com> wrote:

From: ROSS PETTIT <rossfisherman@yahoo.com>  
 Subject: Fw: Gaines Gazette  
 To: "Steve & Kathryn Tyler" <kathryncloset@yahoo.com>  
 Date: Friday, October 2, 2009, 1:10 PM

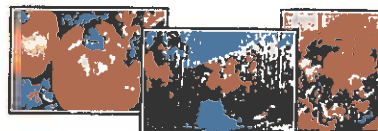
--- On Thu, 10/1/09, Assemblymember Gaines  
 <assemblymember.Gaines@assembly.ca.gov> wrote:

From: Assemblymember Gaines <assemblymember.Gaines@assembly.ca.gov>  
 Subject: Gaines Gazette  
 To: rossfisherman@yahoo.com  
 Date: Thursday, October 1, 2009, 10:46 AM



From Assemblymember Gaines

**Gaines Gazette**



Vol.3 Issue 15

October 2009



#### GAINES GAZETTE

Welcome to the *Gaines Gazette*. This is a free publication brought to you from The Office of Assemblyman Ted Gaines. This monthly e-newsletter provides updates and information on what is happening in the State Capitol and the 4th Assembly District. I trust you will find it informative and invite you to share it with your friends. For additional information, please visit my website by clicking here.

**TED GAINES**

Assemblyman, 4th District

#### IN THIS ISSUE...

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- ASSEMBLYMAN GAINES DRIVES IN NASCAR RACE FOR CHARITY
- LAKESIDE LITTLE LEAGUE TEAM HONORED AT STATE CAPITOL
- STUDY REVEALS IMPACT OF REGULATIONS ON SMALL BUSINESS
- LEGISLATIVE SESSION WRAP-UP: THE WORST OF THE WORST
- COMMUNITY CORNER

#### STATE PARKS UPDATE: MARSHALL GOLD DISCOVERY PARK TO REMAIN OPEN

I am very excited to report that Governor Arnold Schwarzenegger has unveiled a plan that would allow for all state parks to remain open, including Marshall Gold Discovery State Historic Park in Coloma. The Governor's new plan relies on making millions of dollars in savings in other areas of the state parks budget to avoid park closures. This includes reducing maintenance costs and cutting back some services at various parks. Days of operation and operating hours will be cut back at some parks, though keeping them open to the public.



Finding a solution that avoids the closure of all our parks, including Marshall Gold Discovery Park, is fantastic news for Californians and everyone who appreciates these natural jewels of our state.

From the moment the Governor announced his plan to close state parks, I joined with community leaders in our area to show the Administration the devastating economic impact park closures would have on our region. Closing parks like Marshall Gold Discovery Park would have meant that thousands of visitors who flock there every year would have been unable to experience a piece of California's rich natural history.

We held several meetings over the last month with park staff and regional leaders to discuss different ways we could keep the park open, including establishing a public-private partnership that would join the public and private sectors together to operate the park.

In September, I held a rally at the park, where I was joined by more than 300 supporters who showed up to demonstrate how important the park is to our community and our economy, and urge the Governor to keep the park open. I want to commend local leaders including El Dorado County Supervisor Ron Briggs, Lois Fortress, President of the Marshall Gold Discovery Park Association, Dr. Vicki Barber, El Dorado County Superintendent of Schools, Marjorie Sanborn, President of the Coloma-Lotus Chamber of Commerce, and Laurel Brentbun, Chief Executive Officer of the El Dorado County Chamber of Commerce, who all played an integral role in helping keep Marshall Gold open.

I am extremely happy that the Governor's office was able to come up with a plan that minimizes disruptions to visitors, so that all can continue to enjoy our parks. In the coming weeks, I will be watching closely as the details of this plan emerge to make sure it is done in such a way as to not impact the thousand of visitors and school children who visit this park each year.

#### ASSEMBLYMAN GAINES DRIVES IN NASCAR RACE FOR CHARITY



Assemblyman Gaines recently joined local media celebrities at the All American Speedway in Roseville in a NASCAR race for charity.

Gaines came in second place in the 20-lap race, known as the A-ALL Mini Storage Media Blitz 100, sponsored by Comcast. The race was the preliminary event on a big night of racing that culminated with the final race of the season for the NASCAR Camping World Series West – the Toyota/Copart 150.

The winner of the race earned \$1,000 for the charity of their choice. Gaines raced for the Leukemia and Lymphoma Society.

"Getting behind the wheel at the track was a thrilling experience," Gaines said. "I'm a huge auto racing fan, and am proud to have had the opportunity to race for such a great cause."

Assemblyman Gaines, an avid car enthusiast, is also the chairman of the Legislative Automotive Study Group, a bipartisan caucus of legislators that promotes the automotive industry in California.

For photos and video of the race, visit Assemblyman Gaines' [website](#).

#### LAKESIDE LITTLE LEAGUE TEAM HONORED AT STATE CAPITOL



The Lakeside Little League team of Loomis-Granite Bay was recently honored on the floor of the Assembly Chambers for their accomplishment in reaching the Western Region championship game in San Bernardino in August.

Assemblyman Gaines presented the team with an Assembly Resolution on behalf of Assemblyman Roger Niello and Senator Dave Cox.

The team also received individual certificates for their accomplishment in reaching the final game before the Little League World Series.

"An elite, few number of teams make it as far as the Lakeside Little League team did in the championship series this year," Gaines said. "This is an incredible accomplishment for the Lakeside team and we are proud to honor the players and coaches here at the State Capitol with the certificates and recognition they deserve."

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Assemblyman Gaines will be hosting a series of mobile district office hours and community coffees to get in touch with you directly. You are welcome to stop by and say hello, or get help with state-related matters.

Assemblyman Gaines will host Community Coffees at the following locations:

South Lake Tahoe

10/14/09

9:00 a.m. - 10:30 a.m.

Red Hut Café, Corner of Ski Run Blvd. and Highway 50

Loomis

11/16/09 and 2/22/10

9:00 a.m. to 10:30 a.m.

Wild Chicken Coffee, 3640 Taylor Road

Rocklin

12/10/09



9:00 a.m. - 10:30 a.m.  
 Woody's Bar & Grill, 6502 Lonetree Blvd.  
 Roseville  
 10/7/09 and 1/6/10  
 9:00 a.m. to 10:30 a.m.  
 Basic Urban Kitchen & Bar, 112 Pacific Street  
 Lincoln  
 10/19/09 and 1/18/10  
 9:00 a.m. to 10:30 a.m.  
 Kim's Country Kitchen, 537 G Street  
 Auburn  
 12/14/09

9:00 a.m. to 10:30 a.m.  
 Tsudas, 103 Sacramento Street  
 Assemblyman Gaines' legislative staff will be available at the following locations for Mobile District Office Hours in October to assist you with any state related matters. Please check back next month for our list of Winter Locations, starting in November.

Auburn  
 October 5  
 10:00 a.m. - 1:00 p.m.  
 Post Office, 1583 Lincoln Way

Lincoln  
 October 1  
 10:00 a.m. - 1:00 p.m.  
 Library, 485 Twelve Bridges Drive

Placerville  
 October 13  
 10:00 a.m. - 1:00 p.m.  
 Main Street Bell Tower

Cameron Park  
 October 9  
 10:00 a.m. - 1:00 p.m.  
 Bel Air, 3510 Palmer Drive

Rocklin  
 October 21  
 11:00 a.m. - 2:00 p.m.  
 Library, 5460 5th Street

Roseville  
 October 27  
 10:00 a.m. - 1:00 p.m.  
 Raleys, 4051 Woodcreek Oaks Blvd

Also, join Assemblyman Gaines at the upcoming Veteran's Pancake Breakfast:

2009 Salute to Veterans Pancake Breakfast  
 8:30 a.m. to 10 a.m. November 11  
 Roseville Veterans Memorial Hall  
 110 Park Drive, Roseville 95678

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 Suite 160  
 Roseville CA, 95661  
 Phone: (916) 774-4430  
 Fax: (916) 774-4433

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Fw: Dredging the S. Fork of the American River  
The BOSTWO to: raynutting  
Sent by: Kitty J. Miller  
Cc: Kathryn L Tyler

10/02/2009 11:29 AM

## Kathryn, For agenda on dredging...Kitty

----- Forwarded by Kitty J. Miller/PV/EDC on 10/02/2009 11:28 AM -----



"Marty Schumann"  
<marty@modfather.org>  
09/25/2009 04:43 AM

To <bostwo@co.el-dorado.ca.us>  
cc

Subject Dredging the S. Fork of the American River

Sir

I would like to help promote the reopening of dredging on the South Fork of the American river. I am a 62 year old part time miner of 45 years that has had much enjoyment from the inherited right to mine our public lands (1872 mining act). I find it absolutely absurd that a group of people that have no idea of what they are talking about can arbitrarily shut down a river to do a study (EIR) that has been done in the past showing that dredging is beneficial to rivers that are dammed. The natural course have high water that move the bottom to create new spawning grounds for the fish; but it also would move mercury if there was any, it would just move it , 100% of it! At least when we move it we take it out along with tons of other trash. Please get this reversed for there are no rivers that are dammed that support salmon habitats.

Thank you,

Martin Schumann  
530 330-0147

0  
10/1/09  
11:29 AM



October 6, 2009 Board Meeting  
Jim Foley to: cynthia.johnson

10/04/2009 08:34 PM

Please accept the attachments as my presentation regarding Item #24 on your agenda, by Supervisor Nutting.

I send this so that each of you may have a copy to study before I present it orally your meeting

Thank you and best regards, \_\_\_\_\_  
James Foley  
Property and Mining Rights Advocate  
Klamath River, California

**El Dorado County Supervisors Meeting  
10/06/2009**

**Item:**

Supervisor Nutting recommending adoption of Resolution urging the California State Legislature and Governor Arnold Schwarzenegger to Rescind or amend SB670, a ban on suction dredging.

**Submitted by  
James Foley  
Mining Rights Advocate  
21935 Hwy. 96  
Klamath River, CA.  
530-465-2211**

**ACT of JULY 26, 1866  
H. B. 365  
Commonly known as The Mineral Estate Grant of 1866**

I have attached the full text of H.R. 365 as exhibit 1.

This bill was implemented as an act of the Congress of The United States and enacted as a legislative bill that bears the United States House number **H. R. 365.**

It has never been repealed and the only amendment to it is the mining law of 1872, which is simply an amendment to clarify details and definitions of the original grant of 1866. Every piece of legislation, regulation, or rule that has been implemented by any government agency contains a "saving clause" that acknowledges that H.B. 365 is the supreme law of the land, with regard to mineral resources held in "trust" by the federal government for its citizens.

The 1866 enactment is Law. But it is a law granting property in the public domain. That property can not be taken back.

The act of 1866 is NOT policy legislation which subsequent legislation could change because the 1866 conveyed property, all valuable mineral deposits to "citizens of the United States". The *"interpretation of legislative grants are so well settled that they hardly need be reasserted"* requiring that the grantor can not reassert any right upon a grant of property to affect it in any way contrary to the grant.

For a number of reasons no agency of the government can affect the property conveyed in the grant. Agency is called agency because it is an agent, not a principal that can make any decisions not delegated. It may be easier to understand that because Congress disposed of all valuable mineral deposits, gave them away, every subsequent land disposal legislation must have a savings clause, saving from affect the land conveyed, disposed in 1866, even in FLPMA. So even if subsequent legislation could change prior legislation, every subsequent legislation covering this

subject matter must "save" the property Congress gave away, that it could not be affected by any body. 43 USC 1701 (3) explains that **lands not designated prior to a specific use** is under FLPMA. That is the "savings clause" preserving the conveyed property showing the land specifically disposed, or used, is NOT to come under FLPMA. That savings condition is expressed again in 43 USC 1732, the management authority in a number of places.

Forest Service has absolutely NO direct authority over mineral lands, period. BLM has limited continuing "authority" which is really more an obligation consistent with the grant of 1866 and no more. No MOU, can, in any way, adversely affect the property conveyed, no longer in possession of the United States. If there is interference in any way, those are an unlawful takings of the private property granted in the Act of 1866.

There are state statutes, but those must conform to the "laws of the United States". The 1866 act is a law of the United States and congressional land disposal act and no state or agency can interfere or act in violation of it.

This legislation (H.R. 365) has been relatively unknown by the mining community and purposely obscured by language deception by government agencies. Mining rights researchers have recently found and brought this Mineral Estate Grant out into the light of day and are actively working to show both authorities and miners the immense power that is vested in every citizen, with regard to their rights under existing federal law.

What follows in this document is excerpted from this law and comments pertinent to the understanding of it, with regard to miners mining claims as "real property" that cannot be denied access, regulated, or legislated against without invoking the "Supremacy Clause" of the U.S. Constitution.

## **Section 1.**

**3      That the mineral lands of the public domain, both surveyed  
4      and unsurveyed, are hereby declared to be free and open to  
5      exploration and occupation by all citizens of the United  
6      States.**

### **Comment:**

Do not be fooled, the congressional granted right of access on the **public domain** is not a BLM easement, or Forest Service "route" over public land.

**Public domain** is a term used to describe lands that are not under private or state ownership. Our citizens do have a right of remedy in all of this, administrative obstruction of a granted right is subject to civil and criminal liability. Make no mistake; **S.B. 670 is an obstruction of a granted right.**

California bill SB 670 denies miners their constitutional right to mine their claims, which are private property. Even California's constitution clearly states, "Private property may be taken or damaged for public use only when just compensation ... has first been paid to, or into court for, the owner." (Cal. Const., art. I, § 19.) Mineral rights are ownership in land, and therefore miners are landowners.

1   **SEC. 8. And be it further enacted,** That the right of  
2   way for the construction of highways over public lands, not  
3   reserved for public uses, is hereby granted.

**Comment:**

The actions of agencies such as the Forest Service and BLM are in direct conflict with the granted rights of our citizens to not only construct roads for access over public lands, but by closure rules, such as, the forest service travel management plan, the agencies deny lawful access to the land, as well as denying lawful access of miners to mineral lands, which are private property.

Section 1 and generally section 8 declare the property vesting as of the date of the legislative grant, in this case 1866, upon acceptance.

This following is but one evidence that this grant of property, available to everyone today, is not subject to administrative interference or obstruction, whether by license, permit, other form permission, closure, or by criminal citation; the extortive utilization of which is criminal and a plain error and failure of duty for any judge to disregard.

A granted right prevails any administrative authority. This is plainly evidenced in the recent "Hicks case". Referenced here:

United States Court of Appeals, Ninth Circuit.  
UNITED States of America, Plaintiff-Appellee,  
v.  
**Steve A. HICKS**, Defendant-Appellant.  
**No. 01-30146.**  
**D.C. No. CR-00-00001-DWM.**

Argued and Submitted Nov. 5, 2002.  
Decided Nov. 14, 2002.

In this case the Ninth Circuit said, **"Corporate employee was convicted in the United States District Court for the District of Montana, Donald W. Molloy, Chief Judge, of operating motorcycle in area of National Forest closed to motor vehicles by Forest Service closure order, and he appealed. The Court of Appeals held that employee of corporation that owned subsurface mineral rights in national forest was not subject to Forest Service closure order that exempted landowners.**

"Both Lower Courts Committed a Plain Error by Determining the Landowner Exemption Did Not Apply To Hicks.

Because the trial courts did not recognize mineral rights as ownership in land, and because this error adversely affected Hick's entitlement to the landowner exemption, we exercise our discretion to correct this plain error.

**REVERSED AND REMANDED WITH AN INSTRUCTION TO ENTER A JUDGMENT OF NOT GUILTY."**

C.A.9 (Mont.),2002.

U.S. v. Hicks

50 Fed.Appx. 867, 2002 WL 31553938 (C.A.9 (Mont.))

24

Fw: SB 670

The BOSTWO to: Kathryn L Tyler

Sent by: Kitty J. Miller

10/05/2009 03:48 PM

— Forwarded by Kitty J. Miller/PV/EDC on 10/05/2009 03:48 PM —

Doctaisez@aol.com

10/02/2009 11:30 AM

To bostwo@co.el-dorado.ca.us

cc

Subject SB 670

El Dorado County Board of Supervisors,

Please vote "YES" on this Resolution to eliminate or amend SB670 when it comes before the Board of Supervisors on October 6th. SB 670 is not good for the state of California and I appreciate the EDC Board of Supervisors support of this issue.

Thank you very much,

Respectfully

George Clerici  
So. San Francisco CA

24

**Fw: Question from Laurie**  
**The BOSTWO** to: Kathryn L Tyler  
**Sent by: Kitty J. Miller**

10/05/2009 03:04 PM

Dredging

— Forwarded by Kitty J. Miller/PV/EDC on 10/05/2009 03:04 PM —



**"Ray Nutting"**  
<raynutting@hughes.net>  
09/22/2009 11:58 PM

To <bostwo@edcgov.us>  
cc

Subject RE: Question from Laurie

Hi Laurie,

It will be coming up in two weeks.

**From:** Kitty.Miller@edcgov.us [mailto:Kitty.Miller@edcgov.us] **On Behalf Of** bostwo@edcgov.us  
**Sent:** Tuesday, September 22, 2009 10:36 AM  
**To:** raynutting@hughes.net  
**Subject:** Fw: Question from Laurie

— Forwarded by Kitty J. Miller/PV/EDC on 09/22/2009 10:37 AM —

Laurie Lindenauer <laurielinden@hotmail.com>

09/01/2009 04:03 PM

ToRay Nutting <bostwo@edcgov.us>  
cc  
SubjectQuestion from Laurie

Laurie Lindenauer Brown  
PO Box 466  
Fair Play, CA 95684  
(530) 620-4021  
[www.laurielindenauer.com](http://www.laurielindenauer.com)

Ray Nutting, El Dorado County Supervisor, District II:

I was wondering how your meeting in regards to the gold dredging issue came out. As someone who has sometimes been a small dredger, and also is concerned about fish and wildlife habitat, I am concerned about the demise of yet another small industry (and its spinoffs in tourism and recreation) here in the Sierra Foothills, where we can use all the jobs we can get, if carried out in a sensible manner. In addition, the permits for this year were already issued and paid for.....there are a lot of people hurting right now.

Did you have any additional comments on the August 18, 2009, agenda item #8, which I called to your attention as an item of concern?



Please reply as above,

Laurie Lindenauer Brown

Hotmail® is up to 70% faster. Now good news travels really fast. [Try it now.](#)

CONFIDENTIALITY NOTICE: This electronic communication with its contents may contain confidential and/or privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use, or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, or authorized to receive for the intended recipient, please contact the sender and destroy all copies of the communication. Thank you for your consideration.

24

Fw: Resolution to SB670

The BOSTWO to: Kathryn L Tyler

Sent by: Kitty J. Miller

10/05/2009 03:46 PM

Dredging

— Forwarded by Kitty J. Miller/PV/EDC on 10/05/2009 03:45 PM —

"Ron Swenson"

<rgswenson@comcast.net>

To <bostwo@co.el-dorado.ca.us>

10/02/2009 11:09 AM

cc

Subject Resolution to SB670

El Dorado County Board of Supervisors,

I urge you to pass the Resolution to eliminate or amend SB 670 when it comes before you on Oct 6th, 2009. I had planned on attending this meeting but have been called out of state on business. Please let my voice be heard via this email.

I am writing to you about a matter that is of great concern to me, my family, and thousands of other small miners in the State of California. My children who are 12 and 10 have always enjoyed when Dad takes them up to "the claim" as they call it, to look for gold with his dredge and enjoy Mother Nature just as the Forty-Niners did. Where else can kids enjoy true entertainment vs. the Nintendo's and the X-Boxes that tend to dominate our children's lives these days. I have always enjoyed looking for gold with my dredge in the CA streams and I have spent a lot of money looking for a few dollars worth of gold. But the time I have enjoyed with my kids looking for gold with my dredge has been priceless.

SB 670 circumvents a court ruling (Karuk Tribe of California v. California Department of Fish & Game (DFG), Alameda Superior Court of California) which directed DFG to update its previous Environmental Impact Review (EIR) of existing suction gold dredging regulations in California.

Rather than complete the EIR as instructed by the court, DFG arbitrarily eliminated suction dredging from California through legislative designated closures of over 20,000 miles of waterways. SB670 needs to be taken off the books as it has eliminated mining rights of thousands in California. The Order of the court was for DFG to update its EIR on the impacts caused from suction dredging. That is all that is needed to make certain that existing regulations are not allowing harm to the important aquatic resources of this State - and to amend existing regulations where necessary. It is bad policy to allow DFG to skirt around its responsibilities; and rather, with SB 670, eliminate small-scale gold miners entirely from California!

This is unfair to me, my kids, and to the thousands of others like me who do this for a profession or hobby. In addition, it is eliminating jobs and is hurting the CA economy in excess of \$100 Million dollars

I believe that this harmful bill was put together for the express purpose of destroying the existing and future small-scale gold mining industry in California, which is an important part of our State's heritage and economy that has been in existence since before California became a State. I look

forward to next season and taking my dredge and taking my family back into the hills of CA and into the streams and rivers to create some more memories for my family.

Please vote "YES" on this Resolution to eliminate or amend SB670 when it comes before the Board of Supervisors on October 6th. SB 670 is not good for the state of California and I appreciate the EDC Board of Supervisors support of this issue.

Thank you very much,

Respectfully

Ron Swenson  
3114 Birmingham Way  
El Dorado Hills CA 95762

24

Fw: Suction Dredging Resolution  
The BOSTWO to: Kathryn L Tyler  
Sent by: Kitty J. Miller

10/05/2009 04:51 PM

— Forwarded by Kitty J. Miller/PV/EDC on 10/05/2009 04:51 PM —



"jmakiney"  
<goldpan@directcon.net>  
10/05/2009 01:25 PM

To <bostwo@co.el-dorado.ca.us>  
cc

Subject Suction Dredging Resolution

Thank you for the resolution in support of suction dredging and against SB 670.

My husband and I moved to El Dorado County 15 years ago because we love living in a more rural area with tremendous opportunities for outdoor recreation including gold mining. It is heartwarming to know we also live in a county where gold prospecting and gold mining are considered respectable endeavors.

We are licensed fishermen as well as suction dredgers and do not understand how dredges operated in full compliance with the Department of Fish and Game regulations is harmful to the salmon fishery. In fact, we have never seen a salmon in the goldbearing waters of the Sierras. We blame all of the dams on the west slope for no migratory salmon. We do see trout in the creeks that we dredge. It looks to us like the trout population is holding its own if not increasing in the waters that my husband and I dredge. We do know that the spawning beds are more conducive to a thriving fish population after we dredge the creek gravels then before when the creek bottom is hard and slick like cement.

Thank you for your aye vote on the suction dredge resolution.

Jan and Stan Makiney

1363 Crooked Mile Ct.  
Placerville, CA 95667  
(530) 642-8369



# County of El Dorado

330 Fair Lane, Bldg A.  
Placerville, California  
530 621-5390  
FAX 622-3645  
co.el-dorado.ca.us/bos

## Master Report

File Number: 09-1254

\*File ID: 09-1254

Agenda Agenda Item  
Type:

Status: Adopted

Version: 1

Reference:

Gov Body: Board Of  
Supervisors

Department: Board Of Supervisors

Created: 09/29/2009

Agenda Title: Nutting Resolution Suction Dredging

Final Action: 10/06/2009

**Title:** Supervisor Nutting recommending adoption of Resolution urging the California State Legislature and Governor Arnold Schwarzenegger to rescind or amend SB670, a ban on suction dredging on the waterways in the State of California.  
**Resolution 223-2009**

Notes:

Agenda Date: 10/06/2009

Agenda Number:

Sponsors:

Enactment Date:

**Attachments:** A - EIR 1994 DF&G.pdf, B - Crittenden paper.pdf, C - Feb 2009 S.F. Amer. River Watershed Plan.pdf, D - C. Wise paper.pdf, E - CABY.pdf, F - Sept 2009 ICMJ Journal.pdf, G - J. Green paper.pdf, H - 2004 BLM SF Amer River Mgmt Plan.pdf, I - SB670.pdf, J- Resolution Suction Dredge Gold Mining.pdf, K - Presentation of Images.pdf, Letter submitted by James Foley att'd 10-5-09, Exhibit 1 submitted by J. Foley att'd 10-5-09.doc, Letter submitted by Martin Schumann att'd 10-5-09, Newspaper Article from Auburn Journal att'd 10-5-09, Assemblymember Gaines Newsletter submitted by Kathryn and Steve Tyler att'd 10-5-09, Email submitted by Jim Foley att'd 10-5-09.pdf, Letter from R. Eddy att'd 10-5-09, Email from Jan and Stan Makiney att'd 10-5-09, Email from George Clerici att'd 10-5-09.pdf, Email from Laurie Brown att'd 10-5-09.pdf, Email from Ron Swenson att'd 10-5-09.pdf, Email from Jim Aubert att'd 10-5-09.pdf, email from Makiney att'd 10-5-09.pdf, Resolution 223-2009 signed.pdf, Conaty letter.pdf, Miner's News.pdf

Time Required:

Same:

Hearing Date:

Contact: Kitty Milller

Next Meeting Date:

### History of Legislative File

10/28/09  
See ltr.

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Board Of Supervisors	10/06/2009	Adopted As Amended				Pass
<p><b>Action Text:</b> A motion was made by Supervisor Nutting, seconded by Supervisor Sweeney, as follows:</p> <p>1) Adopt Resolution 223-2009 as amended; and</p> <p>2) Authorize staff to send it to key individuals; and</p> <p>3) Authorize Supervisor Nutting to gather key information, utilize staff as needed to prepare packets to be distributed to decision makers and evaluators when necessary for the two year review.</p> <p><b>Notes:</b> PUBLIC COMMENT</p> <p>J. Mason RE:</p>							
Mover:	Ray Nutting	Yes 5	Supervisor Knight, Supervisor Sweeney, Supervisor Nutting, Supervisor Briggs and Supervisor Santiago				

### Text of Legislative File 09-1254

Supervisor Nutting recommending adoption of Resolution urging the California State Legislature and Governor Arnold Schwarzenegger to rescind or amend SB670, a ban on suction dredging on the waterways in the State of California.

**Resolution 223-2009**





# County of El Dorado

330 Fair Lane, Bldg A.  
Placerville, California  
530 621-5390  
FAX 822-3645  
co.el-dorado.ca.us/bos

## Master Report

File Number: 09-1254

\*File ID: 09-1254

Agenda Agenda Item

Status: Time Allocation

Type:

Version: 1

Reference:

Gov Body: Board Of  
Supervisors

Department: Board Of Supervisors

Created: 09/29/2009

Agenda Title: Nutting Resolution Suction Dredging

Final Action:

Title: Supervisor Nutting recommending adoption of Resolution urging the California State Legislature and Governor Arnold Schwarzenegger to rescind or amend SB670, a ban on section dredging on the waterways in the State of California.

### Notes:

Agenda Date: 10/06/2009

Agenda Number:

Sponsors:

Enactment Date:

Attachments:

Enactment Number:

Same:

Hearing Date:

Contact: Kitty Miller

Next Meeting Date:

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Board Of Supervisors	10/06/2009					

### Text of Legislative File 09-1254

Supervisor Nutting recommending adoption of Resolution urging the California State Legislature and Governor Arnold Schwarzenegger to rescind or amend SB670, a ban on section dredging on the waterways in the State of California.

WHEREAS, the California Department of Fish and Game's Final Environmental Impact Report on Suction Dredge Mining dated April 1994, based on several peer reviewed, scientific studies on suction dredge mining states repeatedly that suction dredge gold mining has little, if any, negative impact on fisheries and aquatic habitat; and

# FINAL ENVIRONMENTAL IMPACT REPORT

## ADOPTION OF REGULATIONS FOR SUCTION DREDGE MINING

APRIL 1994

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
DEPARTMENT OF FISH AND GAME

## ISSUES TO BE RESOLVED

At issue is whether or not to adopt regulations permitting suction dredge mining in California. If suction dredge mining regulations are adopted, decisions are needed to accept the proposed list of open waters, seasons of operation, equipment size limits, and other appropriate special conditions. This document includes a review and discussion of the proposed project as well as the six alternatives thereto.

## CONCLUSION

The Department is the trustee for fish and wildlife resources of the State of California. The Department is charged with protecting and managing fish populations and other related aquatic dependent resources in a sound biological manner.

Suction dredge mining can potentially result in the loss of fish production, temporary loss of benthic/invertebrate communities, localized disturbance to streambeds, increased turbidity of water in streams and rivers, and mortality to aquatic plant and animal communities. However, based on best available data, it is anticipated the project to adopt regulations for suction dredging as proposed, will reduce these effects to the environment to less than significant levels and no deleterious effects to fish.

The proposed regulations would result in the maintenance of healthy lake, stream and river systems while allowing for suction dredge mining in California. To further ensure the maintenance of healthy lake, stream and river systems in California, the Department would periodically review and amend regulations based on additional evidence and data.



7  
The Department recognizes there is a long history of other impacts to California's rivers and streams associated with other recreational and commercial activities. These activities include the construction of dams, commercial mining, rafting, fishing, road building and logging. In comparison, the cumulative detrimental effects of these activities are more significant to the overall health of fish and fish habitat than the impacts caused by suction dredging. All negative impacts to the State's rivers are of concern to the Department due to the continuing decline of fisheries and riparian habitat throughout the State. An overview of the historic and current declining condition of the State's rivers and fisheries resources is provided in the 1993 California State Lands Commission's report "California's Rivers - A Public Trust Report".

As a Trustee agency for the fish and wildlife resources of the State, the Department participates with private and public entities in the planning, development and regulation of these other activities. This participation, through the California Environmental Quality Act (CEQA) process, Timber Harvest Assessment Program, coordination with other State and Federal agencies and development of Environmental Impact Reports and regulations for sport and commercial fisheries is well documented in the public record. Therefore, the detailed impacts of these activities on the State's rivers and streams are not discussed in this Final EIR (FEIR). An overview of the relative comparison of suction dredge mining compared to these other activities is provided in the environmental effects section of this FEIR. The scope of this document is specific to adoption of regulations for suction dredging. The environmental effects of the proposed project and suction dredging in general are described in detail in Chapter V of this document. The Department has determined that absent regulations the impacts of suction dredging on the environment would be significant and deleterious.

(rafting)

## ALTERNATIVES TO THE PROPOSED PROJECT

The Department proposes a range of six alternatives to the proposed project. The alternatives, described in Chapter VI, are presented in order of those alternatives having the least to the most environmental impacts.

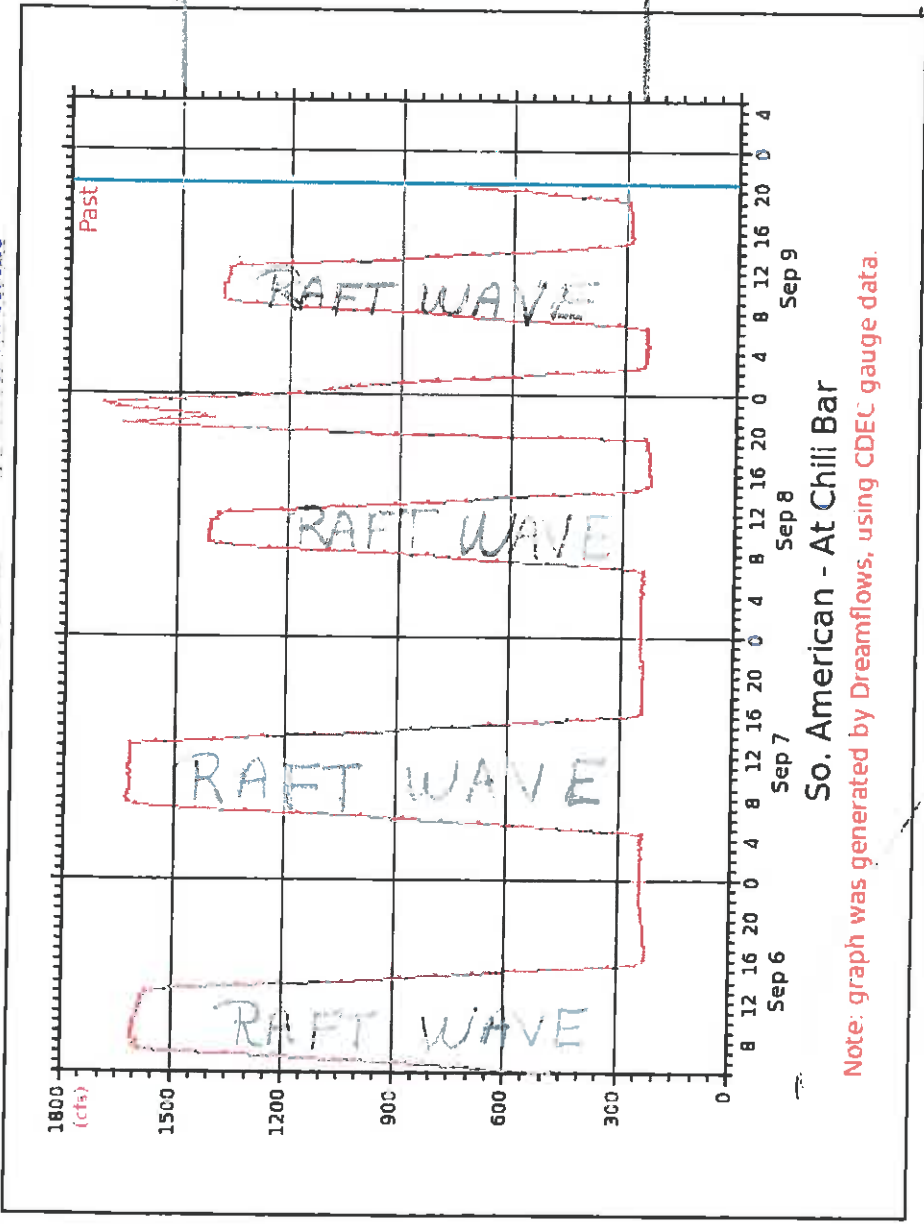
### Alternative 1

Alternative 1 is the No Project Alternative. This alternative would prohibit suction dredge mining in California. The Department would not issue permits or designate any waters of the State open to suction dredge mining.

### Alternative 2

Alternative 2 would adopt the proposed project with modifications based on specific stream course studies to be conducted.

### Alternative 3



Show 30 Days  
Show 3 Years

3500 cfs  
↑  
THE  
DEEP  
open  
↑



WHEREAS, Joseph C. Greene, a retired Research Biologist from the United States Environmental Protection Agency stated in a letter dated June 6, 2007, to the California State Water Resource Control Board that suction dredging moves a miniscule amount of in-stream material such as sand, gravel and silt compared to any high water event in a given year and has little if any negative effects on our rivers and streams; and

State Water Resources Control Board  
Division of Water Quality  
P.O. Box 100  
Sacramento, California 95812-0100  
Fax: 916-341-5620  
email: commentletters@waterboards.ca.gov

June 6, 2007

Subject: SUCTION DREDGE MINING

Dear Board Members,

Thank you for allowing me this opportunity to comment on the water quality aspects of small-scale suction dredge mining.

As I have searched the scientific literature for studies on the effects of small-scale suction dredge mining on the environment I have learned that the preponderance of the published research studies have been directed towards assessment of its effect on the biology of the streams and rivers. In nearly every instance the results have concluded that the effects were less than significant.

In water quality terms some studies have discussed turbidity, water temperature, and suspension of heavy metals into the overlying water. I will focus my water quality comments on these three areas. But first I would like to put this issue in to perspective.

#### GEOGRAPHICAL SCALE OF SMALL-SCALE SUCTION DREDGING

It has been observed that environmentalists opposing suction dredging use data gleaned from reports that studied effects of environmental perturbations that are occurring on a system-wide basis. For example, they would characterize the affects of turbidity from a suction dredge as if it would impact downstream organisms in a manner that system-wide high water flow events might. This approach is entirely inconsistent with the way in which suction dredges operate or generally impact their downstream environment.

The California Department of Fish and Game (1997) described typical dredging activities as follows' "An individual suction dredge operation **affects a relatively small portion of a stream or river.** A recreational suction dredger (representing 90-percent of all dredgers) may spend a total of four to eight hours per day in the water dredging an area of 1 to 10 square meters. The average number of hours is 5.6 hours per day. The remaining time is spent working on equipment and processing dredged material. The area or length of river or streambed worked by a single suction dredger, as compared to total river length, is relatively small compared to the total available area."

In the Oregon Siskiyou National Forest Dredge Study, Chapter 4, Environmental Consequences, some perspective is given to small-scale mining. "The average claim size is 20 acres. The total acreage of all analyzed claims related to the total acres of watershed is about **0.2 percent**. The average stream width reflected in the analysis is about 20 feet or



less and the average mining claim is 1320 feet in length. The percentage of land area within riparian zones on the Siskiyou National Forest occupied by mining claims is estimated to be only *0.1 percent*." The report goes on to say, "Over the past 10 years, approximately 200 suction dredge operators per season operate on the Siskiyou National Forest" (SNF, 2001).

A report from the U.S. Forest Service, Siskiyou National Forest (Cooley, 1995) answered the frequently asked question, "How much material is moved by annual mining suction dredge activities and how much does this figure compare with the natural movement of such materials by surface erosion and mass movement?" The answer was that suction dredges moved a total of 2,413 cubic yards for the season. Cooley (1995) used the most conservative values and estimated that the Siskiyou National Forest would move 331,000 cubic yards of material each year from natural causes. Compared to the 2413 (in-stream) cubic yards re-located by suction mining operations the movement rate by suction dredge mining would equal *about 0.7% of natural rates*.

It has been suggested that a single operating suction dredge may not pose a problem but the operation of multiple dredges would produce a cumulative effect that could cause harm to aquatic organisms. However, "No additive effects were detected on the Yuba River from 40 active dredges on a 6.8 mile (11 km) stretch. The area most impacted was from the dredge to about 98 feet (30 meters) downstream, for most turbidity and settleable solids (Harvey, B.C., K. McCleneghan, J.D. Linn, and C.L. Langley, 1982). In another study, "Six small dredges (<6 inch dredge nozzle) on a 1.2 mile (2 km) stretch had no additive effect (Harvey, B.C., 1986). *Water quality was typically temporally and spatially restricted to the time and immediate vicinity of the dredge* (North, P.A., 1993).

A report on the water quality cumulative effects of placer mining on the Chugach National Forest, Alaska found that, "The results from water quality sampling do not indicate any strong cumulative effects from multiple placer mining operations within the sampled drainages." "Several suction dredges probably operated simultaneously on the same drainage, but did not affect water quality as evidenced by above and below water sample results. *In the recreational mining area of Resurrection Creek, five and six dredges would be operating and not produce any water quality changes* (Huber and Blanchet, 1992).

The California Department of Fish and Game stated in its Draft Environmental Impact Report that "Department regulations do not currently limit dredger densities but the activity itself is somewhat self-regulating. Suction dredge operators must space themselves apart from each other to avoid working in the turbidity plume of the next operator working upstream. *Suction Dredging requires relatively clear water to successfully harvest gold*" (CDFG, 1997).

Management of the Fortymile River region (a beautiful, wild and scenic river in the remote part of east-central Alaska) and its resources is complex due to the many diverse land-use options. Small-scale, family-owned gold mining has been active on the Fortymile since the "gold rush" days of the late 1880's. However, in 1980, the Fortymile River and many of its tributaries received Wild and Scenic River status. Because of this status, mining along the river must compete with recreational usage such as rafting, canoeing, and fishing.

A press release from the U. S. Geological Survey stated, in part, the following, "The water quality of the Fortymile River-a beautiful, ...has not been adversely impacted by gold placer mining operations according to an integrated study underway by the U.S. Geological Survey and the Alaska Department of Natural Resources.

Violation of mining discharge regulations would close down the small-scale mining operations. No data existed before this study to establish if the mining was degrading the water quality. However, even with the absence of data, environmental groups were active to close down mining on the river citing unsubstantiated possible discharge violations.

This study has found no violations to date to substantiate closure of the small-scale mining operations. The result is a continuance of a way of life on the last American frontier." (U.S. Geological Survey October 27, 1998). I have no doubt that this is the real issue currently facing small-scale gold suction dredgers in California.

Suction dredges do not add pollution to the aquatic environment. They merely re-suspend and re-locate the bottom materials (overburden) within the river or stream.

I hope this scientific research information I have provided will be helpful in your efforts regarding suction dredge mining and water quality. I thank you for this opportunity to submit this data.

Respectfully Yours,

Joseph C. Greene  
Research Biologist, U.S. EPA Retired

#### LITERATURE CITED

- CDFG, 1997. draft Environmental Impact Report: Adoption of Amended Regulations for Suction Dredge Mining. State of California, The Resource Agency, Department of Fish and Game
- Cooley, M.F. 1995. Forest Service yardage Estimate. U.S. Department of Agriculture, U.S. Forest Service, Siskiyou National Forest, Grants Pass, Oregon.

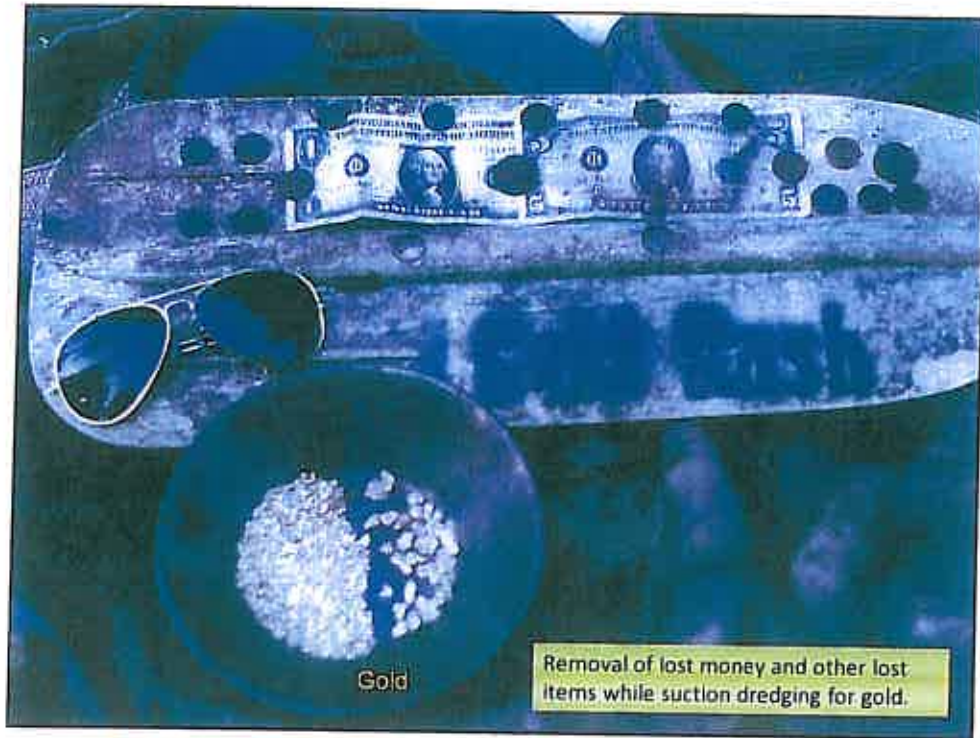
In stream trash and mercury recovered by gold dredgers on South Fork of the American River.

You can see the trash at the bottom of the river.



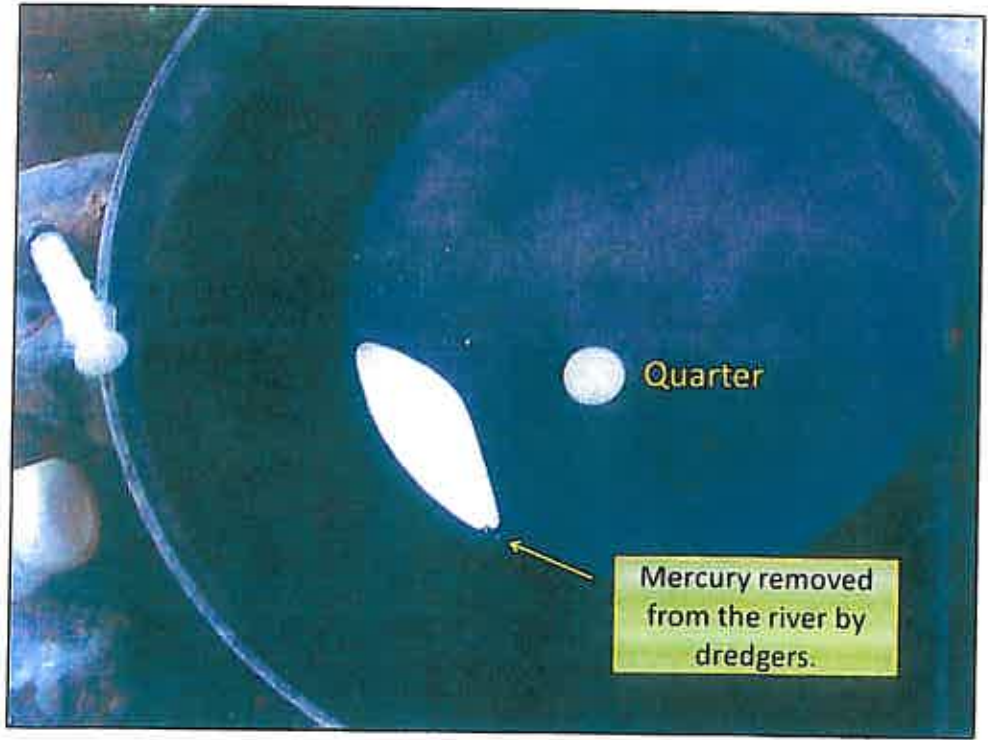
Removal of trash and mercury from our river beds by the local Gold Dredgers















WHEREAS, according to the CABY Website the Nevada Irrigation District will remove mercury contaminated sediment from the Combie Reservoir in the Bear River Watershed by the process of a floating dredge system;

## NID Mercury CEQA Documents

Up one level

**This Nevada Irrigation District (NID) project will remove sediment and mercury from Combie Reservoir in the Bear River Watershed. Sediment will be removed using a floating dredge, and mercury will be removed using a new technology called the Knelson Concentrator. This project seeks to restore storage capacity and benefit recreational activities. It utilizes NID resources and promotes watershed stewardship. A Proposed Mitigated Negative Declaration has been prepared for the project. You can download the declaration documents below. For more information please visit [www.nidwater.com](http://www.nidwater.com) or email [combiesediment@nidwater.com](mailto:combiesediment@nidwater.com)**

Project Description

Fig 1 Location Maps

Fig 2 Site Map

Fig 3 Area of Work

Fig 4 Work Area

Fig 5 Process Flow Diagram

Biological Evaluation

Sands and Gravel

CDC Letter

Cultural Study

Initial Study

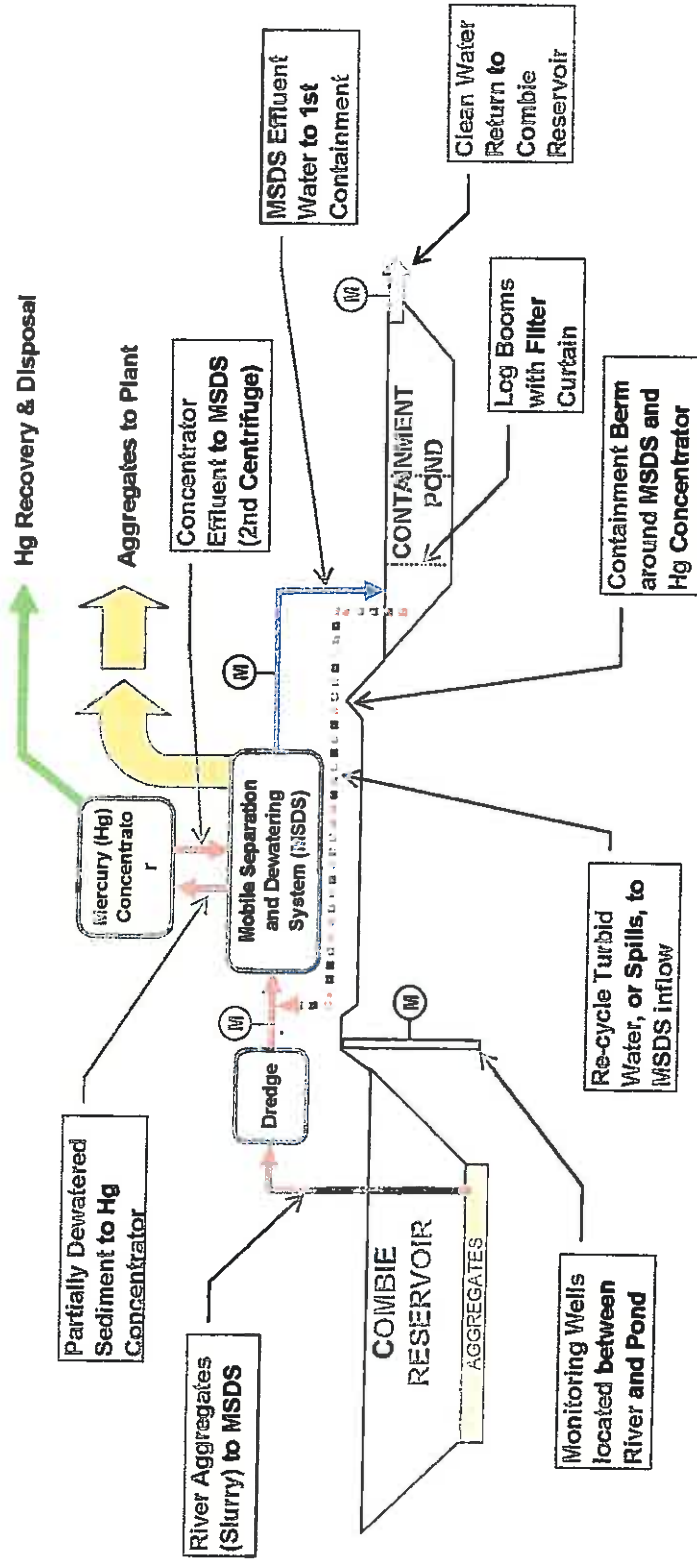
Noise Assessment

Traffic Appendix

Traffic Analysis

# PROCESS FLOW DIAGRAM

*Floating Dredge System*



... WQ Monitoring Point

Job Title: <b>COMBIE RESERVOIR SEDIMENT AND MERCURY REMOVAL PROJECT</b>	
Date: June 2009	Scale: None
Drawn By: T. Crough	Sheet: 6 of 6
NEVADA IRRIGATION DISTRICT NEVADA COUNTY - PLACER COUNTY GRASS VALLEY, CALIFORNIA	

Figure 5



WHEREAS, the State of California has destroyed this historical industry by the passage of Senate Bill 670, banning suction dredge mining from rivers throughout the State without scientific basis or studies documenting any detrimental effects, if any, of dredging on the waterways; and

## NOTICE TO PERMIT HOLDERS AND APPLICANTS REGARDING MORATORIUM ON INSTREAM SUCTION DREDGE MINING

On August 6, legislation placing an immediate moratorium on instream suction dredge mining throughout California became effective. The moratorium applies regardless of whether the operator has obtained or is in possession of a permit issued by the Department of Fish and Game (DFG).

The new law, SB 670 (Wiggins), prohibits the use of vacuum or other suction dredging equipment for instream mining in any California river, stream or lake. Suction dredging operations performed for the regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes are not subject to the moratorium. The restrictions on instream vacuum or suction dredge mining imposed by SB 670 remain in effect until DFG completes a court-ordered environmental review of its suction dredge permitting program and updates, as necessary, existing DFG regulations governing the program. The court-ordered environmental review required by the California Environmental Quality Act (CEQA) is currently underway, and DFG expects to complete that effort and adopt changes to the existing regulations, if necessary, by summer 2011.

Neither the new law nor any other provision of law authorizes DFG to issue refunds to current permit holders.

A violation of the ban on instream suction dredge mining is a misdemeanor, punishable by up to \$1,000 in fines and six months in jail.

Consistent with moratorium, DFG has ceased issuing suction dredge permits. In addition, DFG is also currently subject to a court order prohibiting the issuance of suction dredge permits. (*Leon Hillman et al. v. California Dept. of Fish and Game*, Super. Ct. Alameda County, Case No. RG09-43444 (order issued July 9, 2009).) The order will remain in effect as long as the *Hillman* lawsuit is pending or until further order of the Court.

Additional information can be found at [www.dfg.ca.gov](http://www.dfg.ca.gov).



WHEREAS, according to the September 2009, ICMJ'S Prospecting and Mining Journal, suction dredge mining is a verifiable revenue generating industry in California of greater than \$65 million dollars, a portion of which is generated in El Dorado County; and

79, Number  
September 2009  
\$3.75  
\$4.75/CANADA

# PROSPECTING and MINING JOURNAL

Celebrating Our 79th Year



## DRIVE UNDERWAY TO RESTORE THE RIGHTS OF SUCTION DREDGERS

### POCKET MINING POTENTIAL IN NEVADA'S EAST HUMBOLDT RANGE

### FLOOD STAGE— THE KEY TO READING A RIVER

### PLUS: Melman on Gold & Silver The BEST Classified Ads!



1000



# DRIVE UNDER WAY TO RESTORE THE RIGHTS OF SUCTION DREDGERS

by Scott Harn

California Governor Schwarzenegger signed SB 670 on August 6, 2009, which temporarily halts suction dredging in California until a new Environmental Impact Report (EIR) is completed. This was despite a request from his staff for a report on the economic harm this bill will cause.

The governor's office specifically requested a report to substantiate claims made by miners that the bill would cause in excess of \$60 million harm to the economy of California. We were participants in this study, and the results presented to the governor's staff were rock solid.

The proven contribution of suction dredgers to the economy of California amounted to \$65.47 million per year. When additional estimated contributions were included for items such as commercial retail rents, payroll taxes and property taxes, the economic

harm to California was approaching \$100 million per year. Despite this evidence, and other scientific evidence showing dredging is harmless, Governor Schwarzenegger still signed SB 670.

Miners convicted of violating the ban face fines of up to \$1,000 and six months in jail.

## What's Next

Public Lands for the People (PLP) had already begun preparations for a lawsuit against the State to restore the rights of suction dredge miners. (It may already be filed by the time you receive this issue.)

Mining is a right that has been argued in court on many occasions, and there is plenty of precedence addressing this topic.

**What You Need To Do Right Now**  
Public Lands for the People is in

need of funds. They already have several lawsuits in progress against state and federal agencies, and want to be sure they can adequately fund this lawsuit against the State of California in federal court to restore the rights of suction dredge miners as soon as possible.

PLP is a non-profit organization

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**RESOLUTION NO. 223-2009**  
**OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO**  
**SUCTION DREDGE GOLD MINING**

WHEREAS, gold was first discovered in 1848, on the banks of the South Fork American River in the Valley of Coloma and this County took its name in 1850, from a legendary utopia endowed with vast quantities of gold; and

WHEREAS, the State of California operates Marshall Gold Discovery Park in Coloma to preserve the memory of those daring and courageous pioneers whose early efforts laid the cornerstone upon which this County rests; and

WHEREAS, ancient geological forces supplied this County with a rare abundance of the noble metal and our gold-bearing streams continue to yield rewards of commercial and recreational value; and

WHEREAS, modern mining practice, as exemplified by suction dredging in our gold-bearing streams, is compatible with traditional resource use and it is our desire to foster commercial and recreational gold mining opportunities while providing for the protection and enhancement of other important resources; and

WHEREAS, the California Department of Fish and Game's Final Environmental Impact Report on Suction Dredge Mining dated April 1994, based on several peer reviewed, scientific studies on suction dredge mining states repeatedly that suction dredge gold mining has little, if any, negative impact on fisheries and aquatic habitat; and

WHEREAS, Dr. Robert N. Crittenden, an expert with an M.S. in Marine Biology and a Ph.D. in Fisheries, did a Post-Doctoral on the fellowship of salmon habitat and concluded that the recreational mining activities of panning, sluicing and dredging enhance the salmon habitat, and these activities should be encouraged as they provide one the most cost-effective enhancement techniques as a beneficial side-effect of private recreation; and

WHEREAS, suction gold dredge operators are conscientious stewards of the environment and consistently clean up debris in the stream beds of the rivers including, but, not limited to, household trash, fishing apparatus, boating apparatus, clothing, mercury and other heavy metals as a beneficial by-product of their endeavors and are the best equipped user group to accomplish a deep in stream clean up; and

WHEREAS, according to the Cosumnes, American, Bear and Yuba Planning Committee (CABY), which is comprised of a broad representation of various interest groups such as water agencies, conservation groups, counties, regional and agriculture groups, watershed collaboratives, tribe and recreational groups, and the South Fork American River Watershed Plan dated February 2009, states as their main objective a collaborative effort to reduce mercury contamination, and protect and restore the local streams and rivers; and

WHEREAS, on August 20, 2009, in a letter by Claudia Wise, a retired physical scientist/chemist with the United States Environmental Protection Agency, refers to the California State Water Board's Water Quality Division report (Humphreys, 2005), which indicates that suction gold dredging effectively removes at least 98% of the measured mercury processed through the dredge, and suggests it is right to look to the suction dredge community for help in locating hotspots and removing mercury from the river systems; and

WHEREAS, according to the CABY Website the Nevada Irrigation District will remove mercury contaminated sediment from the Combie Reservoir in the Bear River Watershed by the process of a floating dredge system; and

WHEREAS, according to the September 2009, ICMJ'S Prospecting and Mining Journal, suction dredge mining is a verifiable revenue generating industry in California of greater than \$65 million dollars, a portion of which is generated in El Dorado County; and

WHEREAS, the State of California has destroyed this historical industry by the passage of Senate Bill 670, banning suction dredge mining from rivers throughout the State without scientific basis or studies documenting any detrimental effects, if any, of dredging on the waterways; and

WHEREAS, Joseph C. Greene, a retired Research Biologist from the United States Environmental Protection Agency stated in a letter dated June 6, 2007, to the California State Water Resource Control Board that suction dredging moves a miniscule amount of in-stream material such as sand, gravel and silt compared to any high water event in a given year and has little if any negative effects on our rivers and streams; and

WHEREAS, no other user groups or activities, which have had an admittedly greater effect on the fisheries and aquatic habitat of our California rivers, according to the Department of Fish and Game's 1994 Final Environmental Impact Report on Suction Dredge Mining, have been banned from our rivers; and

WHEREAS, there is no known salmon runs above Folsom Reservoir in the American River watershed and California's ban on suction dredge mining (SB670) was passed under the guise of protecting salmon in Northern California; and

WHEREAS, the Bureau of Land Management's South Fork American River Management Plan of 2004, set parameters and limitations in its scope that does not allow for any alternative plan which would result in significant adverse environmental impacts, and accommodates suction dredging as an acceptable use; and

NOW, THEREFORE, BE IT RESOLVED, that the El Dorado County Board of Supervisors strongly request the State of California and its Governor to immediately suspend SB 670, which has banned suction dredging in California, and allow the California Department of Fish and Game to continue its appropriate regulation of this economically beneficial and environmentally harmless activity, which generates over ten thousand jobs and over \$65 million dollars worth of industry for our great State.

BE IT FURTHER RESOLVED, that the El Dorado County Board of Supervisors encourage other stream and river user groups, in recreation and business, to support and embrace the suction dredging community which is best equipped for the clean up of deeply embedded in-stream toxic metals and miscellaneous trash as a byproduct of their prospecting activities, thereby helping to restore the water quality of our local streams and rivers for the benefit of all.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 6th day of October, 2009, by the following vote of said Board:

Attest:  
Suzanne Allen de Sanchez  
Clerk of the Board of Supervisors

Ayes: Nutting, Sweeney, Knight, Briggs, Santia  
Noes: none  
Absent: none

By: \_\_\_\_\_

Deputy Clerk

\_\_\_\_\_  
Vice Chairman, Board of Supervisors  
Raymond J. Nutting

**I CERTIFY THAT:  
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS  
OFFICE.**

**DATE:** \_\_\_\_\_

**Attest:** Suzanne Allen de Sanchez, Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By: \_\_\_\_\_

Date: \_\_\_\_\_

WHEREAS, Dr. Robert N. Crittenden, an expert with an M.S. in Marine Biology and a Ph.D. in Fisheries, did a Post-Doctoral on the fellowship of salmon habitat and concluded that the recreational mining activities of panning, sluicing and dredging enhance the salmon habitat, and these activities should be encouraged as they provide one the most cost-effective enhancement techniques as a beneficial side-effect of private recreation;

Address: 274 Sturdevant Rd. Sequim WA 98382 — Telephone: (360) 582-9550

I am an independent professional. My qualifications are as follows:

I hold a B.S. in zoology, but also took a significant amount of mathematics and physical sciences;

an M.S. in Marine biology, specializing in mathematical ecology, but did my thesis on modeling the microclimatology of small streams;

a Ph.D. in Fisheries, focusing on biological statistics (that is biometrics), and did my thesis on the statistical analysis of hydroacoustic surveys for fisheries assessment; and

I did a Post-Doctoral fellowship on salmon.

I have published about two dozen scientific articles in peer-reviewed scientific journals and many technical reports.

For the approximately the last fifteen years, I have worked as an independent consultant primarily in Western Washington.

My clients have included individuals; property owners' groups; farmers' organizations; environmental organizations; other consulting companies; industry; and County, State, Federal and foreign governments;

Quantitative methods are applicable to a wide range of applications and over my approximately three decades of professional experience, I have addressed many different topics. The topics I have worked on include but are not limited to developing new statistical methods; ecological and environmental modeling; fisheries; fresh and saltwater zooplankton and phytoplankton; marine benthic communities; hydroacoustics; hydrodynamics of open channels and porous media; ground and surface water; channel migration, microclimatology and ecology of streams and rivers; genetics; and so on... —

I also have practical experience in local and State politics and, having worked for several years as a volunteer librarian in a law library, I have some familiarity with the law, although, I do not give legal advice.

In addition, I have also published popular works on history, philosophy, and politics and will soon publish on religion.

Home

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Dr Robert N.  
Crittenden  
274 Sturdevant Rd. Sequim WA 98382  
(360) 582-9550

## **Regarding Dredging, sluicing, and panning**

Dredging, panning, and sluicing not only improve salmonid habitat but can also create new habitat.

Salmonid eggs and alevins (alevins are tiny newly hatched salmonids which still reside in the interstitial spaces among the gravel of the streambed) need clean gravels through; which interstitial water can flow, providing them with oxygen. Silts and fine sands reduce the porosity of the streambed, thereby, reducing the interstitial flow and the oxygen supply. It can also reduce the amount of interstitial space for alevins. Reduced porosity has been shown to be directly related to reduced survival of salmonid eggs and alevins.

If properly conducted (for example, according to the present guidelines in Washington State — WDW 1987) dredging, panning, and sluicing reduce the amount of fine sand and silt in the streambed and, thereby, improve its porosity. These activities will, therefore, result in better interstitial flow, a better interstitial oxygen supply for eggs and alevins, and more interstitial space for alevins. The net result is improved survival for salmonid eggs and alevins.

Thus, dredging, panning, and sluicing improve existing salmonid habitat and can also create new habitat. These activities should be encouraged.

## **Habitat for salmonid eggs and alevins — the importance of streambed porosity:**

**Pink Salmon:** As William R. Heard pointed out in his (1991) review "Pink salmon choose a fairly uniform spawning bed in both Asia and North America. Generally these spawning beds are situated on riffles with clean gravel or along the borders between pools and riffles in shallow water with moderate to fast currents. . . . pink salmon avoid spawning in quiet deep water, in pools, in areas with a slow current, or over heavily silted or mud-covered streambeds."

Pink salmon (*Oncorhynchus gorbuscha*) spawning sites may be characterized as being clean gravels. However these sites may also have a few cobbles, a mixture of sand, but relatively little silt (Semko 1954; Kobayashi 1968; Dvinin 1952; Smirnov 1975; and Hunter 1959).

The faster the current, the larger the particle which will be suspended and carried off by it. Hence, a strong current provides some guarantee that silts and

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fine sands will not plug up the interstitial spaces. The more rapid flow is also turbulent. The eggs and alevins are provided with a good oxygen supply by the turbulent mixing of water into the interstices of the streambed.

The porosity of a streambed and the survival of eggs and alevins has been demonstrated to be directly related to the composition of the streambed, being lower where there are more fine sands and silt (McNeil and Ahnell 1964; Rukhlov 1969; Brannon 1965; Bams 1969).

**Chum Salmon:** In contrast, to pink salmon which preferentially select riffles, chum salmon (*Oncorhynchus keta*) tend to select sites of upwelling spring water (Kobayashi 1968). These sites often have a lower flow rate than is found at pink salmon sites (Bams 1982; Soin 1954; Sano and Nagasawa 1958). Chum salmon spawning sites may be found directly below a pool which is partially obstructed at its lower end by a gravel bar. The water infiltrates the gravel bar, travels through the bar as ground water, and reemerges into the water column below the bar.

Interstitial flow is as important for the survival of their eggs and alevins, as it is for the pink salmon. However, in this case the oxygen is carried into the groundwater by convection (that is by the net movement of water into and then out of the streambed) rather than by turbulent mixing. However, in some cases turbulent mixing may also be an important factor at chum spawning sites.

**Sockeye Salmon:** Sockeye salmon (*Oncorhynchus nerka*) spawn either in streams or in areas along lake shores which have underwater springs. There is also a case of beach spawning where turbulence provides the oxygen supply (Olsen 1968). Spring-fed and Beach spawning sites often have lower oxygen levels than stream sites and sockeye eggs have some ecological and physiological adaptations which improve their survival under those slightly reduced oxygen levels. (Smirnov 1950; Soin 1956, 1964). However, their oxygen supply (and, hence, substrate porosity) remain an important factor affecting their survival.

**Coho Salmon:** Coho salmon (*Oncorhynchus kisutch*) mostly spawn in small streams in areas of gravel of 15 cm or less in diameter (Burner 1951). In some cases Burner found that the spawning sites contained mud, silt, or fine sand, but that this was removed in the nest-building activity. Chamberlain (1907) concluded that coho are the least selective of the salmon species about their spawning site — he found them spawning in almost every stream or river in a very broad range of sites from smoothly flowing to white water and from cobble to muddy. His conclusion was also supported by Foerster (1935) and Pritchard (1940).

However coho appear to prefer small streams (Gribanov 1948) and select a site at the head of a riffle where there is a good interstitial flow (Shapovalov and Taft 1954). The porosity of the streambed and the flowrate of the stream are also important factors affecting site selection (Briggs 1953; Gribanov 1948). Survival has been shown to be related to the porosity of the streambed (Tagart 1984).

**King Salmon:** King Salmon (*Oncorhynchus Tshawytscha*) show strong

selectivity for spawning areas with high interstitial flow rates (Vronskiy 1972; Russell et al. 1983). Mike Healey (1991) suggests that of all the salmon species, king salmon may be the most sensitive to reduced oxygen levels during the egg and alevin stages. Their sensitivity to the oxygen level was experimentally demonstrated by Silver et al. (1963). The strong relationship between survival and the percolation rate of oxygenated interstitial water was experimentally demonstrated by Shelton (1955) and demonstrated under field conditions by Gangmark and Broad (1955) and Gangmark and Bakkala (1960).

As Mike Healey (1991) points out, "There is no doubt that percolation is affected by siltation and that siltation in spawning beds causes high mortality (Shaw and Maga 1943; Wickett 1954; Shelton and Pollock 1966).

Caveats: Bear in mind that spawning habitat limitation may not be the mechanism limiting the abundance of any specific stock of salmon. There is an absence of support for the habitat limitation hypothesis, except in a few isolated cases. Nevertheless, the enhancement of habitat and the improvement of survival for eggs and alevins are generally desirable goals.

Also bear in mind that in areas which have no fish, restrictions on dredging, sluicing, or panning aren't needed. An example of such as area is the region of a watershed above an impassible barrier, whether it is a dam, waterfall, or rapid.

In areas which have fish, recreational mining activities should be restricted to times of the year such that eggs and alevins aren't buried under silt and fine sediment while they are still in the gravel. Such regulations are already in place in Washington State.

## **Effects of dredging, sluicing, and panning on the porosity of the streambed:**

Generally these activities involve the removal of sediment material from the streambed or, more often, from a gravel bar. The fine components of the sediment become suspended in the wash water and are carried downstream. The finer the sediment the further it will be carried. However, it will eventually settle, often in a quiet pool area.

What is involved here is the movement of the smaller particles out of a riffle area and into a pool area. Generally this will improve the streambed porosity in the riffle area. Recall that riffles are generally the preferred spawning habitat.

Medium sized particles may deposit in the riffle area. During the next major peak-flow event both the fine sediments and the medium sized particles will often be carried far downstream.



Thus, the effect of mining is to increase the downstream transport rate for fine and medium sediments. The consequence must be that the stream-system as a whole will have fewer of these sediments. This will result in greater streambed porosity. As the literature I have reviewed above shows, for all salmonid species greater porosity results in better survival and more available habitat for eggs and alevins.

In the case where the sediment is removed from a bar, rather than from the streambed, it is necessary to consider a longer time period — Stream courses aren't stationary but move within the confines of the streambanks. Fine sediments in gravel bars will be resuspended in the stream during these natural movements of the stream over the course of several years.

However, if the bars have been mined on a regular basis, their fine and medium particles will already have been removed before the river naturally resuspends them. Gravel bars which are free of silts and fine sand provide habitat. Although these bars may appear dry, there is often water and interstitial spaces below the surface, which can support alevins and redds (that is, nests of eggs) which were laid during high-water.

### Recommendation:

The conclusion is that the recreational mining activities of panning, sluicing, and dredging enhance salmonid habitat. These activities should be encouraged. They provide one of the most cost-effective enhancement techniques as they are a beneficial side-effect of private recreation.

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Sincerely  
 Dr. Robert N. Crittenden  
 March 2, 1996

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BILL NUMBER: SB 670 CHAPTERED  
BILL TEXT

## CHAPTER 62

FILED WITH SECRETARY OF STATE AUGUST 6, 2009

APPROVED BY GOVERNOR AUGUST 5, 2009

PASSED THE SENATE JULY 13, 2009

PASSED THE ASSEMBLY JULY 9, 2009

AMENDED IN ASSEMBLY JUNE 26, 2009

AMENDED IN SENATE MAY 19, 2009

INTRODUCED BY Senator Wiggins  
(Principal coauthor: Assembly Member Huffman)  
(Coauthor: Senator Wolk)  
(Coauthors: Assembly Members Evans and Jones)

FEBRUARY 27, 2009

An act to add Section 5653.1 to the Fish and Game Code, relating to dredging, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 670, Wiggins. Vacuum or suction dredge equipment.

Existing law prohibits the use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state without a permit issued by the Department of Fish and Game. Under existing law, it is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges. A violation of the permit requirement is a misdemeanor. The department is authorized to close areas otherwise open for dredging and for which permits have been issued if there is an unanticipated water level change and the department determines that closure is necessary to protect fish and wildlife resources. Existing law requires the department to adopt regulations to implement certain of the vacuum or suction dredge equipment requirements and authorizes the department to issue regulations with respect to other requirements. Existing law requires that the regulations be adopted in accordance with the requirements of the California Environmental Quality Act (CEQA).

CEQA requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. The act exempts from its

provisions, among other things, certain types of ministerial projects proposed to be carried out or approved by public agencies, and emergency repairs to public service facilities necessary to maintain service.

This bill would designate the issuance of permits to operate vacuum or suction dredge equipment to be a project under CEQA, and would suspend the issuance of permits, and mining pursuant to a permit, until the department has completed an environmental impact report for the project as ordered by the court in a specified court action. The bill would prohibit the use of any vacuum or suction dredge equipment in any river, stream, or lake, for instream mining purposes, until the director of the department certifies to the Secretary of State that (1) the department has completed the environmental review of its existing vacuum or suction dredge equipment regulations as ordered by the court, (2) the department has transmitted for filing with the Secretary of State a certified copy of new regulations, as necessary, and (3) the new regulations are operative.

This bill would declare that it is to take effect immediately as an urgency statute.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5653.1 is added to the Fish and Game Code, to read:

5653.1. (a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and vacuum or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared, and certified the completion of, an environmental impact report for the project pursuant to the court order and consent judgment entered in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(b) Notwithstanding Section 5653, the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state is prohibited until the director certifies to the Secretary of State that all of the following have occurred:

(1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3

of Title 2 of the Government Code.

(3) The new regulations described in paragraph (2) are operative.

(c) The Legislature finds and declares that this section, as added during the 2009-10 Regular Session, applies solely to vacuum and suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes governed by other state or federal law.

(d) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Legislature finds that suction or vacuum dredge mining results in various adverse environmental impacts to protected fish species, the water quality of this state, and the health of the people of this state, and, in order to protect the environment and the people of California pending the completion of a court-ordered environmental review by the Department of Fish and Game and the operation of new regulations, as necessary, it is necessary that this act take effect immediately.





U.S. Department of the Interior  
Bureau of Land Management  
Folsom Field Office  
63 Natoma St  
Folsom, CA 95630



July 2004

WHEREAS, the Bureau of Land Management's South Fork American River Management Plan of 2004, set parameters and limitations in its scope that does not allow for any alternative plan which would result in significant adverse environmental impacts, and accommodates suction dredging as an acceptable use; and

## The South Fork American River A Management Plan



## PLANNING CONSTRAINTS

Planning constraints form the parameters, or limitations, in the scope of a plan. They clearly state what the plan will not cover, or define how something will or will not be accomplished. As with the Planning Assumptions, these were developed in an open forum in consultation with the South Fork Planning Group.

1. No plan alternative will be selected which results in significant adverse environmental impacts.
2. The acquired federal lands are currently withdrawn from mineral location and entry (not open to mining claims for 50 years). The original public domain lands, approximately, 2,531 acres of the larger planning area, are currently segregated (segregation is an action which closes the lands to the mining laws for a five year period). This land is withdrawn until February 9, 2007. This plan must determine whether these segregated lands will continue to be withdrawn or be reopened to mineral entry.
3. This plan must be consistent with federal laws, regulations, and policy, and, to the greatest degree possible, the applicable local and state laws.
4. All legal prior existing rights of mining claimants will be recognized.
5. Planning actions will be constrained to BLM managed lands within the boundaries of the South Fork American Planning Area.
6. Newly acquired lands will not be open to the mining law (subject to mining claims).
7. Planning actions and capital developments will be subject to financial constraints and availability of funds.
8. Planning decisions will be based on available data, with only limited crucial inventory work completed by BLM and volunteers to direct and perfect planning decisions.
9. This plan will provide management decisions needed to address problems associated with the shooting area on the Ponderosa Parcel.
10. Restrictions may be placed on public use to protect sensitive natural and cultural resources. Restrictions may also be imposed to protect private property and provide for public health and welfare.
11. No planning decisions will impact recreational navigability of the South Fork American River within the planning area.
12. During the planning process BLM will not issue any permits, leases or rights-of-way, within the planning area which would alter the character of the area or impede planning decisions. Annual Special Recreation Permits will continue to be issued as long as they do not impact or change the character of the area.
13. The BLM will not use condemnation as a management tool.

## VISION STATEMENT

The vision statement contained in a plan such as this one is basically a description of the long range goals of the management plan. The purpose of a good vision statement is to clearly define the purpose of the plan, and to describe what the planning area will be like 20 years from now.

### Vision Statement:

The public lands along the South Fork American River will continue to provide an enjoyable, educational experience for visitors, and to contribute to the quality of life in the local community. The South Fork American will be managed in a fashion that recognizes human needs through a partnership between the BLM, State Parks, El Dorado County, other agencies, landowners, businesses, the community, and recreational users.

Cultural resources, including both prehistoric and historic, will be protected and preserved. The different ecosystems found on the public lands will be protected and enhanced, and, where desirable and practical, restored to pre-Gold Rush conditions. Reasonable public access to the river and the public lands will accommodate a wide range of recreation uses, including, but not limited to boating, hunting, fishing, hiking, camping, bicycling, recreational gold-panning, and suction dredging, consistent with resource protection. The public lands will be managed in a way that respects and protects private property rights, and balances competing uses. Environmental education will be an important aspect of public land management. Where appropriate to implement this vision, the public lands may be supplemented by the acquisition of additional property.

## GENERAL MANAGEMENT PRINCIPLES

The following management guidelines, or policy statements will apply equally to all parcels of public land which make up the South Fork American River Management Area. These reflect a mixture of conformance to Federal law and policy, and of recommendations from the South Fork Planning Group.

### Relationship with Laws, Policy, and Other Planning Documents

Management of the public lands along the South Fork American River is guided by the Sierra Planning Area Management Framework Plan (MFP), as amended in 1988. The Management Plan for the South Fork American River will be an amendment to the MFP to implement decisions contained in this plan. Topics and issues not specifically addressed in the South Fork Plan will continue to be guided by the MFP.

### Special Area Designation

During the public planning process, participants unanimously recommended the South Fork of the American River for Special Area status. This is consistent with BLM regulations [43 CFR 8372.0-5 (g)] which authorize Special Area designation when it is determined that resources on the public lands require special management and control measures for their protection. The public lands of the South Fork contain extraordinary recreation values, and are part of a region that occupies a unique place in California history. Because of the South Fork's proximity to a major metropolitan area, the need to manage for large numbers of recreationists, and fragile



WATERWAYS, according to the Consumes, American, Bear and Yuba Planning Committee (CABY), which is comprised of a broad representation of various interest groups such as water agencies, conservation groups, counties, regional and agriculture groups, watershed collaboratives, tribe and recreational groups, and the South Fork American River Watershed Plan dated February 2009, states as their main objective a collaborative effort to reduce mercury contamination, and protect and restore the local streams and rivers; and



# South Fork American River Watershed Plan *Final • February 2009*

*Prepared for:*  
*South Fork American River Watershed Group*

*Prepared by:*  
*El Dorado Irrigation District  
with EN2 Resources*



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This goal addresses several issues across the SFAR watershed including sedimentation, contamination, fire and fuels, water supply, temperature, flooding, groundwater, habitat alteration, and fisheries and aquatic biota. This goal seeks to protect and improve watershed resources such as water supplies, stream flow, water quality, habitat, and fish and wildlife through the development and application of good land use practices for the variety of land uses occurring in the SFAR watershed. Improved land use practices, as reflected in the SNFPA 2004 (see Chapter 3, mandatory plan #5), can help maintain healthy forests; healthy riparian systems (that provide stream shading to help control stream temperatures and provide adequate herbaceous undergrowth to buffer streams from contamination runoff); and well-vegetated slopes that reduce sediment and erosion runoff and increase infiltration rates into aquifers. Sound land use and design development that minimizes habitat degradation can also protect fisheries and other aquatic biota and protect habitat for sensitive or threatened and endangered species.

*Goal 8: Manage sediment for water resources, infrastructure and habitat value.*

Sediment can be a challenge to manage, as there are habitat and infrastructure issues associated with too much as well as too little. Excessive sedimentation is a consequence of stream bank or upland erosion overloading a stream's capacity to transport and distribute the material. Excessive sedimentation causes channels to aggrade, becoming more shallow and unable to accommodate high flows, which results in flooding and damage to infrastructure. It can also contribute so much fine material to a stream that fish spawning areas and aquatic biota are buried. On the other hand, streams in balance with natural sediment loads are important and necessary for aquatic biota. Trout and salmon must have clean, renewable gravel as well as some fine material for successful spawning; invertebrate populations require cobble-sized material; and stream banks are continuously rebuilt from material deposited during high flow events.

*Goal 9: Reduce mercury contamination in waterways.*

Mercury contamination resulting from historic mining activity is a serious problem in certain segments of the SFAR Watershed. Mercury (Hg), when methylated, becomes toxic to living forms. Hg deposited and isolated in specific stream locales and in reservoirs can be removed. However, the best management practice is to reduce the input of mercury by addressing the sources such as leaching or runoff from old mines.

*Goal 10: Reduce contamination of surface and groundwater resources.*

Evidence indicates that certain surface and groundwater sources in the watershed have become contaminated, including, but not limited to, the listing of the lower section of the SFAR on the EPA's 303(d) list. Reducing contaminants throughout the watershed will depend upon improved groundwater protection, through measures such as better waste and stormwater management, land use

recreational vehicles and re-vegetating exposed soils can reduce sediment inputs. Additionally, mass wasting events in the past have been triggered by extreme wildfire events in the SFAR watershed. It is of utmost importance to target areas of high wildfire risk for fuels management and, if needed, immediate re-forestation.

*Objective 3: Meet and/or attain Regional Water Quality Control Board standards.*

Sediment, temperature, and contaminants are the principal water quality concerns in the SFAR Watershed. Each of these water quality parameters must meet State and federal standards for the designated beneficial uses set out in the regional water quality Basin Plans. Improving and maintaining water quality requires intercepting and buffering inputs through best management practices that sustain healthy riparian and upland systems, preserve water quality for human consumption and crop application, and effectively manage wastewater sources and other sources of contaminants.

*Objective 4: Work collaboratively to restore state designated impaired water bodies (303(d)).*

At present, the only 303(d) listed water body in the SFAR watershed is the lower portion of the SFAR, from Slab Creek Reservoir to Folsom. It is listed for mercury. Because of the ubiquitous nature of mercury contamination throughout the regional planning area (CABY), cooperation between county agencies and water districts is necessary to address this water quality issue; this is a key concept not only for restoring the quality of the lower SFAR, but for preserving water quality throughout the SFAR watershed.

*Objective 5: Support forest management practices and mining management that benefits watershed resources.*

The SFAR Watershed includes a high proportion of forested land, making forest management a critical component of water resource planning (e.g., ENF and large amounts of forest lands in private ownership). If the hydrologic climate in California continues to shift as predicted towards warmer temperatures, longer and drier summer seasons, and flashier hydrographs in the wet season, it will become even more critical to manage forest densities and fuel loadings. Forest management is essential to offset the effects of increased drought, pests, diseases, and fires to conifer forests in our region, all of which have an effect on water quality and supply. It is the intention of the SFAR Watershed Group to encourage and support a full range of forest management projects that employ best management practices to manage forest densities, reduce fuel loadings, and control wildfires. At the same time, stakeholders wish to improve watershed conditions associated with grazing, mining, and recreation management and to reduce sediment inputs through road and trail improvements.

*Objective 6: Protect, restore, and enhance beneficial sediment transport processes.*

## Supervisors vote to support dredge mining

By Dale Andreasen  
Daily News

Mon Jan 26, 2009, 09:07 AM PST

Yreka, Calif. -

By two unanimous votes, members of the Siskiyou County Board of Supervisors showed their support for county suction dredge miners at last Tuesday's regular board meeting.

Most of these miners search for gold in the Klamath River around the Happy Camp area. Many are members of the New 49ers recreational gold mining organization.

In the first action, the board adopted a resolution opposing emergency rulemaking by the California Department of Fish and Game to shut down suction dredge mining countywide while it updates its environmental analyses with a \$1.5 million grant to complete a new Environmental Impact Report.

The new rule, promoted by a petition from fishing interests and environmental groups including the Karuk Tribe, California Trout, Friends of the North Fork, Sierra Fund and Pacific Coast Federation of Fishermen's Associations, would immediately suspend or substantially limit suction dredge mining pending completion of the renewed EIR process.

"This is an issue that we have fought over and over again," district 5 Supervisor Marcia Armstrong said at the meeting. She said that Fish and Game has tried to shut down the miners through repeated legislative attempts. The courts have ruled that an EIR should be done. "Mining does not occur when fish are spawning," Armstrong continued. "Some studies even show that suction dredge mining actually helps create better conditions for salmon."

There is currently a petition before Fish and Game requesting an emergency halt to suction dredge mining until the EIR is completed. Fish and Game is required to make its decision on the petition by this week.

"The reason we're being demonized is because we're the last bastion of freedom," said Ken Oliver, who has been mining for 30 years. He called dredge mining a "great economic benefit to the county." Michael Higby, a member of the New 49ers who lives in Siskiyou County, said, "I've never seen any harm to even a single fish."

Board chair Michael Kobseff said that he, too, supports the suction dredge miners.

The resolution that was adopted read in part, "Therefore, be it resolved that the Siskiyou County Board of Supervisors believes that careful consideration [and studies] of the positive and negative impacts asserted to arise from suction dredge mining ... should be completed ... prior to any revisions to the existing suction dredge mining regulations..."

The board then directed natural resources policy specialist Ric Costales to prepare a letter to the director of the California Department of Fish and Game (CDF&G) transmitting the resolution and expressing the board's opposition to rulemaking prior to the completion of appropriate CEQA processes.

Costales presented his letter to Donald Koch, director of CDF&G in Sacramento, asking him to deny the petition based upon the fact that there is no emergency, that the petition presents no scientific evidence of harm done to fish by suction dredge mining and that an emergency rule forcing a halt or severe cutback in suction dredge mining poses "a severe detrimental impact on both the county and state economies."

Costales quoted the conclusion of a 1997 EIR study done by CDF&G: "The effects of suction dredging would appear to be less than significant and not deleterious to fish."

The letter was approved unanimously by the board.

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WHEREAS, on August 20, 2009, in a letter by Claudia Wise, a retired physical scientist/chemist with the United States Environmental Protection Agency, refers to the California State Water Board's Water Quality Division report (Humphreys, 2005), which indicates that suction gold dredging effectively removes at least 98% of the measured mercury processed through the dredge, and suggests it is right to look to the suction dredge community for help in locating hotspots and removing mercury from the river systems; and

**Truths about Dredging and effects on Fish Habitat**

TIME \@ "MMMM d, yyyy" August 20, 2009

The Honorable Governor Arnold Schwarzenegger

State Capitol Building  
Sacramento, CA 95814

Fax: 916-558-3160

Dear Governor Schwarzenegger,

**PLEASE VETO BILL SB670 (anti-suction dredging legislation)**

My name is Claudia Wise; I retired in 2006 after 32 years of civil service with the U.S. EPA as a physical scientist/chemist. I have been a member of many scientific projects over the years starting my federal career in the Fish Toxicology arena and ending it with the Salmon Restoration division. I have worked on projects ranging from urban fish populations and fish avoidance testing to eelgrass habitat and global climate change. I have been and remain to be a strong proponent of protecting the environment.

On October 11, 2007 in regards to AB 1032 I wrote to you regarding another attempt by the legislature to get around a court order and unnecessarily put a large group of miners and businesses out of work with no scientific evidence to support their claims.

Dozens of peer-reviewed journal articles some commissioned by the USEPA, USGS, CDFG, Corp of Engineers, and many more from universities support suction dredging as having *de minimis* effects or no significant effect on the environment they are used in. Nothing has changed in peer-reviewed literature since that time to change this fact.

Suction dredge mining has little impact on the areas fish and biota. In relation to natural occurrences suction dredge mining is insignificant. To put the impact of suction dredge mining into perspective it was calculated that suction dredge mining disturbs only 0.7% of the sediment that is moved naturally in a year. The Siskiyou National Forest (SNF), where this study occurred, is a very prominent mining area in California.

According to the U. S. Forest Service, SNF, "There are 1,092,302 acres on the Siskiyou National Forest. Using a factor of 0.33 cubic yards per acre per year times 1,092,302 acres will produce a very conservative estimate that 331,000 cubic yards of material move each year from natural causes compared to the 2413 cubic yards that was moved by suction dredge mining operations in 1995. This would be a movement rate by suction dredge mining that equals about 0.7% of natural rates." (Cooley 1995).



California Department of Fish and Game already regulates the miners out of the waterways during important life events for the Salmon. That includes during spawning season when redds are present.

It is well known that suction dredging causes little or no environmental harm to fish and biota what many overlook are the many benefits that dredging provides such as increased spawning gravels, dredge made refugia, and yes, mercury remediation to name a few.

Suction dredging breaks up cemented riverbeds providing fish with loose gravel for future spawning grounds in areas fish presently are not able to use for spawning. Between 1996 and 1998, Quihillalt (1999) found 4% of redds where located on or within 1000 m of dredge tailings. He theorized that dredge tailings may be attractive sites for redd construction because tailings are often located near riffle crests where fish frequently spawn, and they provide loose, appropriately sized substrate. However, embryos in tailings may suffer high mortality during years of high river flows (1998) and be of no concern during years of low river flows (1996 & 1997).

During a later survey on the Klamath River during 2002 only one redd was observed on suction dredge tailings. Recreational suction dredge mining was present throughout the survey from the Highway I-5 Bridge to Happy Camp (Schuyler and Magnuson. 2006).

Even with scouring effects to redds reported in scientific literature this gravel provides areas to spawn that would not otherwise be available to them. Any added benefit to increasing salmon productivity, using suction dredging, is a benefit to fish numbers. Even during years of high mortality due to high flow events if only a few of the embryos survive that may be more than would be expected without the benefit of added spawning gravels provide by the tailings.

I have been involved in temperature surveys on the Klamath River in California in regards to suction dredge activity and existing conditions of refugia. We have found natural refugia to be no better in many cases to that of dredge made refugia.

Dredge holes can provide a holding place for fish as they pass up the waterway on their migration path to and from the ocean providing a place to get out of the faster currents to rest. Some of these dredge holes may also be cooler due to ground water seepage if the holes are deep enough. This leads to development of additional areas of needed refugia.

Another Benefit the suction dredge community could provide the state with is mercury remediation. In talking with miners, the majority typically do not run into large pools or hot spots of mercury. However, their concerns for the environment is the same as other citizens. Miners have shown the willingness to hand over collected mercury to a collection facility if such a facility exists. The California State Water Board's Water Quality Division report (Humphreys, 2005) suggested the idea of paying the miner's for their efforts would help facilitate this plan. Collection facilities have been provided in the past with great response.

The California Water Board has spent a lot of time and money on mercury remediation projects with limited success, though in 2001 EPA Region 9 located in San Francisco, California did collect mercury from miners very effectively. Collections of mercury has been happening in Oregon and Washington through the states respective Division's of Ecology and with even greater success at miner's rallies.

Even though EPA Region 9 has ended this program and removed it's existence from the website EPA, Region 9 had a mercury "milk run" in 2000. Agency personnel were able to collect 230 pounds of mercury from miners and local dentists. The total amount of mercury collected was equivalent to the mercury load in 47 years worth of wastewater discharge from the city of Sacramento's sewage treatment plant or the mercury in a million mercury thermometers. (US EPA, 2001.)

Over the past four years, the Resources Coalition and other small-scale miners associations in Washington have turned in 127 pounds of mercury and eight pounds of lead for safe disposal with the help from the Washington Department of Ecology. Ecology staff attended miners' rallies in Oroville and Monroe, explaining the state's program for proper disposal of lead and mercury. (ENS 2007).

The mining community of today is, in my opinion, the only group that is in a position with the technology to help with the removal of lead and mercury at a very economical price to the public. Any residual mercury remaining after dredging is that much less to worry about residing in our Nations waterways.

In reviewing Humphrey's (2005) comments regarding possible problems associated with collecting mercury via suction dredging methods, it is right to look to the suction dredge community for help locating hotspots and removing mercury from the river systems. In my opinion the data provided in the report by Humphrey's (2005) did not demonstrate any clear conclusions that would prohibit the State from allowing this activity. On the contrary, in the discussion of results it was stated that a suction dredge in the American River was able to collect 98 percent of the measured mercury processed through the dredge. The amount of mercury collected may have been higher if the investigators had been using a dredge with the modern jet flare design. Even 98 percent is a huge plus for the environment and it would be irresponsible to not allow mercury to be removed from the rivers and streams whenever it is found.

In Humphreys report (2005), the author expressed concern for the loss of a small portion (2%) of the mercury from the back end of the sluice box. In the conclusions it was stated that the amount lost constituted a concentration more than ten times higher than that needed to classify it as hazardous waste. Yet 98 percent of the mercury was now secured and the process did not add any mercury to the system that was not already present. The small fraction lost, because of its density, would relocate back onto the river floor buried in the sediment close to where it was removed while dredging.

Mercury is continuously moved every winter in high storm events. Since the cessation of hydraulic mining, accumulated sediment from hydraulic placer mining has been

transported to the Sacramento–San Joaquin Delta and San Francisco Bay by sustained remobilization (James, 1991). Providing a program to collect mercury from miners would aid the Water Board's mission of reducing mercury contamination in the deltas and bays where mercury methylation is a large concern.

In the test described by Humphreys (2005) a small portion of floured mercury was collected in the sediments as it escaped the sluice box. This mercury whether floured before it entered the sluice box, or not, would still be in elemental form. Regardless of surface area it would be no more toxic than the other 98 percent that was suggested to be left in place.

Aside from grossly polluted environments, mercury is normally a problem only where the rate of natural formation of methyl mercury from inorganic mercury is greater than the reverse reaction. Methyl mercury is the only form of mercury that accumulates appreciably in macroinvertebrates and fish. Environments that are known to favor the production of methyl mercury include certain types of wetlands, dilute low-pH lakes in the Northeast and North central United States, parts of the Florida Everglades, newly flooded reservoirs, and coastal wetlands, particularly along the Gulf of Mexico, Atlantic Ocean, and San Francisco Bay (USGS 2000).

If not collected the mercury is guaranteed to end up farther down stream, and eventually in the delta or the bay, where methylation is a real environmental problem. In my opinion it would be a highly irresponsible management practice to leave a large portion of mercury in the rivers and streams because of unrealistic concerns for the lesser amount moving only a short distance away from an operating dredge. Most likely if floured the movement of fine mercury would extend no farther than 50-feet off the end of the sluice box. That would relate to the distance a turbidity plume might extend downstream from a small-scale suction dredge.

However, if the mercury was left in place the next storm event would surely move it downstream closer to, and eventually into, the bay and delta. In fact, according to Humphrey's study in 2005 mercury was seen moving down stream and re-deposited on bedrock already dredge cleaned. The important fact here is mercury was flowing down stream in a suction dredge free zone during lower river flows than what take place under high winter river conditions.

It is most important to reduce the total amount of mercury in the streams and rivers and its transport downstream into the bays and deltas. This is defined as a part of Total Maximum Daily Load ("TMDL") goals.

We know for certain that mercury is transported downstream throughout the winter season during high water events. Therefore, anytime there is the possibility for the removal of mercury by miners it should be undertaken and supported.

You justifiably vetoed that last bill because it was unnecessary and suction dredge mining is already regulated by the Department of Fish and Game. But here we are again....

4 of 6

There was no reason, last year, to sign AB1032 into law and there is no reason to sign Bill 670 into law this year. I respectfully ask that you not add further to the problems related to increased government regulation where none is warranted. Please allow California Fish and Game to do their job. They are already regulating suction dredging adequately to protect fish. The court has ordered California Department of Fish and Game to prove suction dredging creates significant harm before changing the mining regulations.

I respectfully ask that you VETO bill 670.

Sincerely,

Claudia Wise

34519 Riverside Dr SW

Albany, Oregon 97321

541-990-7009

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